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PRISON DISSENT

AMERICA

LONDON

JOHN MURRAY, ALBEMARLE STREET

1848

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PRISON DISCIPLINE

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A M E R I C A .

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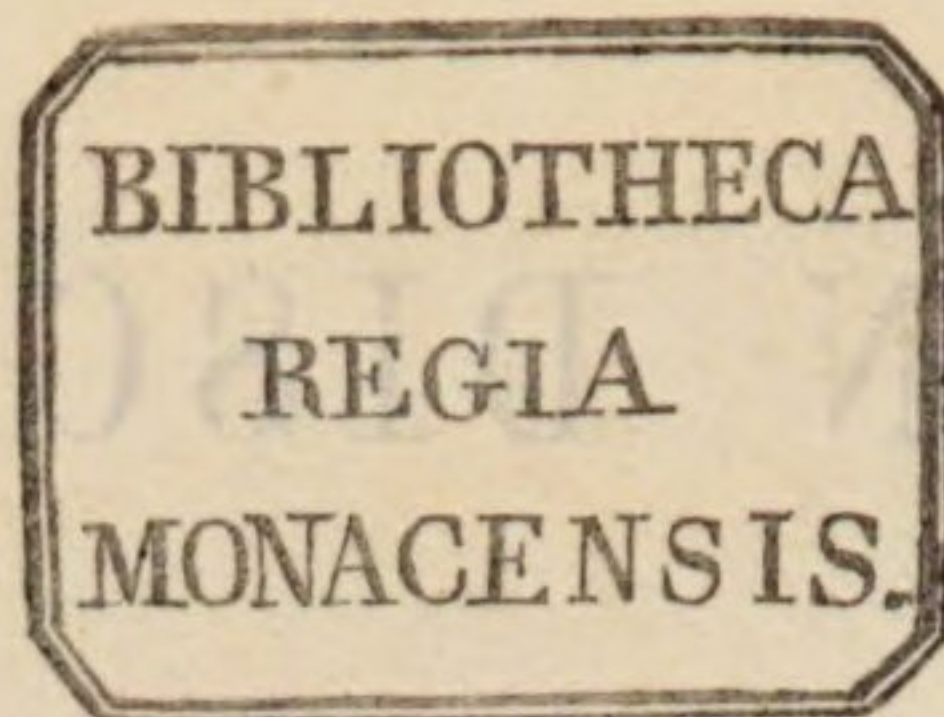
FRANCIS C. GRAY.

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JOHN MURRAY, ALBEMARLE STREET.

1848.

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ADVERTISEMENT.

THE statements in the text, for which no other authority is cited, are founded, so far as relates to the Eastern Penitentiary in Philadelphia, on the printed reports of the officers of that institution; as to the prison at Charlestown, on the like reports, on the records of the prison, on communications from the warden and the chaplain, and on personal observation; as to prisons in Great Britain, on official reports and parliamentary documents, especially on the testimony given before a committee of the House of Lords last spring by officers of those prisons.

It would be presumptuous to assert that there are no mistakes in this pamphlet. But it is enough for my purpose, if there are none, which affect materially its arguments or its conclusions.

F. C. GRAY.

Boston, November 10, 1847.

County Jail,

New Prison of British Government,

Results, as to American Prisons,

Appendix,

175

177

181

185

ADVERTISING

CONTENTS

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prison at Charleston, on the 15th report on the
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W. D. LLOYD
Boston, November 10, 1847.

THE AMERICAN PENITENTIARY
PUBLISHED BY THE
AMERICAN PENITENTIARY
PHILADELPHIA

PRISON DISCIPLINE IN AMERICA.

CONTENTS.

State of the question,	1
Experiments and progress of opinion in America, . . .	15
The State Prison in Charlestown,	47
Discharged Convicts,	55
Model prisons of the two systems,	61
Solitude and society,	68
Industrious habits and skill,	71
Comparative earnings,	77
Bodily and mental health,	80
Number of deaths,	94
Number of cases of insanity,	100
Experience of New Jersey,	114
Experience of Rhode Island,	121
Amount of society provided for convicts,	123
Opinions in Europe,	131
Poland,	135
France,	139
England, Millbank,	153
" Pentonville,	163
" Parkhurst,	172
Scotland, Perth,	173
County Jails,	175
New Scheme of British Government,	177
Results, as to American Prisons,	181
Appendix,	185

CONTENTS

1	State in the present
13	Development and progress of opinion in America
47	The State System in Charleston
63	Unpublished Letters
67	Sketch of some of the two systems
68	Sketches and details
71	Industrial system and skill
77	Comparative advantage
80	Health and mental health
91	Summary of results
100	Summary of some of results
114	Experiment of the new system
121	Comparison of the new system
128	Reasons for success, progress and its causes
131	Summary of the new system
132	Summary of the new system
133	Summary of the new system
138	Summary of the new system
163	Summary of the new system
173	Summary of the new system
173	Summary of the new system
178	Summary of the new system
177	Summary of the new system
181	Summary of the new system
185	Summary of the new system

PRISON DISCIPLINE IN AMERICA.

THE extensive and systematic inquiries and experiments, which have been made in this country during sixty years past, in relation to Prison Discipline, have given to our accumulated knowledge on this subject almost the character of a science. Many general conclusions in it are established, and many questions, once the occasions of violent controversy, are now determined in a manner which commands universal assent. That stinted food, constant confinement, total privation of social intercourse, should form no part of any system; that all systems should provide for entire separation at night, and for vigorous exercise and useful labor, instead of the fatiguing and unprofitable toil of the treadmill by day; and that no more nor greater punishments, should be inflicted than are requisite for the attainment of these objects and for the preservation of order; these and other propositions once doubted or even strenuously denied, are now admitted by all.

One of the most important questions, which remains to be decided, and one which has recently excited great zeal and interest here and in Europe, is this : Whether the daily labor of prisoners should be carried on in workshops containing several in company under constant supervision ; or by each alone in entire solitude ; and it is now proposed to consider this question, especially as it is illustrated by the experience of certain prisons in the United States.

This diversity forms the chief distinction between the two systems of prison discipline generally known here as those of Auburn and of Pennsylvania, as they are now administered in this country. It is not designed, however, to discuss the general merits of these systems ; nor indeed would it be easy to give a definition of them, since each of these terms is used in different times and places to convey very different meanings. The Pennsylvania system for some years before 1829 prescribed the constant confinement of each convict to a solitary cell by day and by night, without permission to labor. For several years afterwards, it permitted labor, but prohibited all intercourse between the convicts and any other persons, excepting their religious teachers and other official visitors, and denied them all knowledge of anything transpiring beyond the walls of the prison, even of the situation of their families and friends. At present, visits may be received from well-disposed persons, admitted by permission of the inspectors, and are indeed represented to be an essential part of the system. The Auburn sys-

tem also, as administered not only in Auburn itself, but in other places, has sometimes allowed, if it did not prescribe, the frequent application of blows by inferior officers, and other severe punishments, which in Massachusetts were disapproved from the beginning and never tolerated in practice. Even when the discipline established in any particular prison is known, in all its details, there is still great diversity of opinion, as to what portions of it are to be deemed essential to the system, what only accidental, and what mere abuses; so that the same name, be it Auburn or Pennsylvania, may convey entirely different ideas to different persons, and be often used in one sense, and understood in another; and thus remarks made with reference to a system, as it existed at one time and place, and perfectly true when thus understood, have in fact been misrepresented as intended to apply to it at others, and grave charges of dishonesty and falsehood most unjustly founded on such misrepresentation. It is obvious, that these and similar disputes about words, while they lead to much bitter crimination and recrimination, can have no tendency in any manner to elucidate the truth.

In such discussions, there is neither propriety nor justice in impeaching the motives of those who differ from us. They cannot be supposed to have corrupt motives for preferring one system to another; and if pride of opinion, or any like cause leads them to misrepresent facts and arguments, they are probably unconscious of it; and their errors should be met by evidence and by reasoning, not by vituperation. Coarse

and vulgar epithets add no weight to argument; but are always strong indications of a weak cause or a weak advocate, often of both. It is to be hoped, that there are few among us, who would imitate the example of some transatlantic writers recently cited here, in casting such foul aspersions, few, who would be so reckless as to repeat them publicly without reprehension, and think to excuse themselves on the ground, that they merely state, but do not adopt them; forgetting, that as such an excuse would be no justification in a court of law for repeating words of slander, so it is no apology for disseminating any imputation on the veracity or integrity of others in a court of conscience or of honor. But enough of this. There is little danger that such aspersions will have any material influence on the public mind, or that they will injure any but those who invent and those who circulate them.

There is danger, however, that those not acquainted with the subject may be misled by the speculations of distinguished foreigners, who, wanting a sufficiently long experience in their own country and not sufficiently acquainted with our experience, maintain certain statements and conclusions to be absolutely and universally true, which so far as this country is concerned, are known to be erroneous; and whatever may once have been thought of them, are now entirely obsolete among all intelligent men conversant with the practical operation of the different systems of prison discipline among us.

No such man would now assert or echo the asser-

tion, that in all the prisons in America where social labor is established, every violation of rule is punished on the spot by blows inflicted by the inferior officer, who witnesses it; or would argue or echo the argument, that such punishment must of necessity be enforced, in every prison adopting this mode of labor; when he must know, that of the two Penitentiaries on this system existing in Massachusetts, one has never admitted any such punishment at all; and in the other neither this nor any other punishment can be inflicted for any offence whatever, by an inferior officer, or by any other authority than the head of the prison himself, who, after deliberate hearing and consideration of the complaint and the defence, at the end of the day's work, may cause stripes to be inflicted in his own presence, not exceeding ten, to which number he is restricted by the express regulations of the prison; and who inflicts even this punishment very rarely.

No such man would assert, that there does not appear to have been any case of hallucination or insanity in the Eastern Penitentiary of Pennsylvania, before the year 1838, and that though many such cases afterwards occurred, a few days generally sufficed to effect a cure in them; when he must know, from the official reports of the same Penitentiary, that the first assertion is entirely erroneous, though exact statements of the numbers of insane were not regularly made for the years previous to 1837; and that the second assertion, if once too hastily countenanced, has since been so completely disproved, that we find in the Report of

the Physician of that Penitentiary, for 1846, the following passage :

‘ It will be seen by the table, that many of the cases of insanity that occurred within the year, were of a partial nature ; but it must be confessed, that the tendency of all seems to be to pass into dementia. Than this, no other result could well be anticipated, as it is utterly impossible to afford the patient the benefit of judicious moral treatment within the walls of any prison ; and the unaided effects of medical remedies would be often more injurious than useful. It is true that the noisy and turbulent may be frequently reduced to submission by so called modes of treatment that have certainly more the character of punishments than of remedial measures ; but under the deceitful calm thus produced the delusions still exist, and the quiet and automatic order that is considered as evidence of restoration to health, is in reality the result of an almost complete obliteration of the mind. Insanity I believe to be quite a curable disease when taken in its early stages, and when the physician can command all the necessary requisites for its treatment ; but if the patients are perpetually subjected to the discipline of a penal institution, and they be *really insane and not malingerers*, I do not hesitate to state my belief, that the percentage of recoveries and non-recoveries will be found to be in an inverse ratio to what they are said to be in well-regulated asylums.

“ This opinion naturally suggests the question, ought not the prisoners who become insane, to be immediately transferred to a Lunatic Asylum, where their restoration to sanity may be looked upon as comparatively certain, instead of subjecting them to treatment that must almost in every instance render them helpless for life ? I think this question must almost invariably be answered in the affirmative ; for surely if the crime be considered only deserving of a temporary incarceration, it would not be just to visit the offender with a punishment worse than death.” *Eighteenth Report, 57.*

These remarks are not intended to convey any censure on the able and learned men, who made those statements. Those which were erroneous at the time when uttered, were so, no doubt, from inadvertence or misinformation; and it is not wonderful that even those inhabitants of Europe who are best informed on this subject, should not be well acquainted with the actual condition of our prisons, when we ourselves, with all our habits of looking to Europe for information, know so little about theirs. As to such of these statements and conclusions as are proved to be incorrect only by our own subsequent experience, for these they are in nowise responsible, relying as they did on the best evidence in their power at the time.

But the wonder is, and it is no slight one, that the results of brief experiments made long ago by ourselves, transmitted hence to Europe, and there received on our authority, should, after many years, be brought back here and held up by some among ourselves as conclusive and binding on us, in opposition to our own more deliberate judgment upon more mature experience; as if the first hasty deductions from our own short and imperfect observation were clothed with some mysterious and inviolable sanction by passing through foreign lips, and the echo of our own voices were the response of an oracle. It is no such echo that we are told to worship.

Taking no shame to ourselves, therefore, for deriving knowledge from experience, and holding ourselves entirely unfettered by our own early and hasty observa-

tions, and just as free to alter our present opinions hereafter, upon sufficient evidence, as we now are to change, on good grounds, those heretofore expressed ; it is proposed to inquire what plan of prison discipline appears, from the evidence now before us, to be best adapted to our present wants and condition. The idea of holding ourselves perfectly indifferent, neither expressing nor forming any opinion whatever, until a long and mature experience shall enable us to form one likely to be definitive, however plausible it may seem in theory, is preposterous in practice ; since it is impossible, while we postpone forming any opinion, to postpone action also ; for in this case to do nothing is to act. What is to be done while this long experience is accumulating ? We must in the meantime have some sort of prisons and some sort of discipline. In establishing and administering these, surely it would not be wise to take no heed to the knowledge we possess, because we do not possess more ; or to be so dazzled by the speculations of others, as to disregard our own experience.

Endeavoring, then, to avoid those expressions which have been so frequently used in different senses as to make it difficult to apply them without danger of being misunderstood, such as *Auburn*, *Pennsylvania*, *separate*, *congregate*, &c., let us consider what are the prominent features of the system now adopted in theory and enforced in practice in the State of Massachusetts.

It provides for the entire separation of the prisoners by night ; for training them up to active and diligent

labor in some useful occupation during the day, in company with others, but under such constant supervision, as may best tend to prevent any dangerous or corrupting intercourse, thus giving them at the same time and during all their time of labor, the benefits of healthy exercise, industrious habits and social existence; for their religious and moral improvement, for their instruction in classes and for their physical health and comfort, and it permits no more nor greater punishments, than are absolutely requisite for these objects and for the preservation of good order; and these can be inflicted only by authority of the head of the prison, after due hearing and deliberation.

The advocates of labor in solitude will readily concur in the propriety of all these provisions, excepting those which require labor in company and instruction in classes. And since all the objections urged against social instruction exist also against social labor, so that if labor in classes be allowed, no one will contend that instruction in classes should not be allowed also; the whole discussion may practically be confined to a comparison of the relative advantages and disadvantages of having the labor of the convicts carried on in society or in solitude. The other provisions above stated, and many more, such as the precise nature of the punishments, the allowance of overstimulation, &c., whether deemed essential or not so, have no bearing on this discussion, inasmuch as, whatever decision may be adopted with regard to any of them, is equally compatible with either mode of labor.

The great danger to be guarded against in this discussion by those really in search of truth alone, is that which chiefly retards improvement in the physical and other mixed sciences ; an obstinate attachment to hasty generalizations, the assumption upon insufficient evidence, and sometimes on mere speculation without evidence, of general propositions, axioms or principles, and a pertinacious adherence to them in spite of subsequent experience.

In this pertinacity lies all the evil. To reduce what we know on any subject to general expressions, is highly useful, tending to methodize the knowledge we already possess, so that it may be more easily remembered and applied, and at the same time to guide our inquiries and experiments for the acquisition of more knowledge. But it should always be kept in mind, that though in the abstract or pure sciences, there are fundamental principles independent of experience and necessarily true, yet in the mixed sciences, in which all speculation must be founded on experience, and corrected by it, all our generalizations, call them principles or what you will, can be nothing more than the deductions of fallible reason from imperfect knowledge, and are therefore merely provisional. The conclusions of abstract science are deduced from axioms, which the human mind cannot conceive to be erroneous, and of course are more certain than deductions from experience, since this rests after all on the evidence of the senses, which we know to be capable of deceiving us. And as all our deductions in the mixed sciences have

no other foundation than experience, they cannot be more certain than the evidence on which it rests, and may of course be countervailed by the like evidence. This consideration is peculiarly important with reference to sciences, which, like that of prison discipline, are yet in their infancy. For where our knowledge is very extensive, so that our deductions are supported by long, varied and uniform experience, we act on them with as much confidence as if they had the certainty of mathematical demonstration ; though this they can never acquire, nor can they for a moment be maintained in opposition to a single well-established fact.

The mischievous consequences which have resulted, in this country, from an unyielding adherence to hasty opinions on this subject are so remarkable, and tend so fully to illustrate the origin, history and present condition of this new science among us, as well as to guide our future investigations ; that it may be instructive to present a brief sketch of the progress of opinion and of improvement here in relation to it.

The first persevering and efficient efforts in America to reform the whole system of prison discipline were made by "The Philadelphia Society for relieving the miseries of public prisons," established in 1787. The statements made of the condition of the prison in Philadelphia at that time are such, that if they were not supported by high, uniform and uncontradicted authority, it would be impossible for us at this day to believe them. It is represented as a scene of promiscuous

and unrestricted intercourse, and universal riot and debauchery. There was no labor, no separation of those accused, but yet untried, nor even of those confined for debt only, from convicts sentenced for the foulest crimes; no separation of color, age or sex, by day or by night; the prisoners lying promiscuously on the floor, most of them without anything like bed or bedding. As soon as the sexes were placed in different wings, which was the first reform made in the prison, of thirty or forty women then confined there, all but four or five immediately left it; it having been a common practice, it is said, for women to cause themselves to be arrested for fictitious debts, that they might share in the orgies of the place. Intoxicating liquors abounded, and indeed were freely sold at a bar kept by one of the officers of the prison. Intercourse between the convicts and persons without was hardly restricted. Prisoners tried and acquitted, were still detained till they should pay jail fees to the keeper; and the custom of *garnish* was established and unquestioned; that is, the custom of stripping every new comer of his outer clothing, to be sold for liquor, unless redeemed by the payment of a sum of money to be applied to the same object. It need hardly be added, that there was no attempt to give any kind of instruction, and no religious service whatsoever. Such are the naked facts. The following representation of the state of the prison, while these and similar enormities prevailed there, is contained in the "Notices of the efforts to improve the Prison at Philadelphia, by Roberts Vaux."

“ On the day of the adoption of this constitution, the society elected its officers and committees, who proceeded to an immediate fulfilment of their important and benevolent duties.

“ It is much to be regretted, that the first minutes of the acting committee, which contained, doubtless, a mass of intelligence which would now be deeply interesting, cannot be found. Recourse has therefore been had to a few of the venerable persons, who, after a lapse of almost forty years, survive to relate some of the occurrences connected with their early labors in this field of beneficence and patriotism. Their representations of the condition of the jail, and of those confined in it when their visits commenced, are truly appalling. A brief sketch of these will serve to prove at once the immense difficulties of the undertaking, and the moral courage which must have been exerted to overcome them. The prison, as already stated, was at the corner of High and Third streets, then nearly in the centre of the population of the city. It is said to have been an injudiciously-contrived building, with subterraneous dungeon for prisoners under sentence of death. What a spectacle must this abode of guilt and wretchedness have presented, when in one common herd were kept, by day and by night, prisoners of all ages, colors, and sexes ! No separation was made of the most flagrant offender and convict, from the prisoner who might perhaps be falsely suspected of some trifling misdemeanor ; — none, of the old and hardened culprit, from the youthful and trembling novice in crime ; — none, of the fraudulent swindler, from the unfortunate and possibly the most estimable debtor ; and when intermingled with all these, in one corrupt and corrupting assemblage, were to be found the disgusting object of popular contempt, besmeared with filth from the pillory — the unhappy victim of the lash, streaming with blood from the whipping-post — the half naked vagrant — the loathsome drunkard — the sick, suffering with various bodily pains — and too often, the unaneled malefactor, whose precious hours of probation had been numbered by his earthly judge.

“ Some of these deplorable objects, not entirely screened from the public eye by ill-constructed walls, exposed themselves daily at the windows, through which they pushed out into the street bags

and baskets, suspended upon poles, to receive the alms of the passenger whose sympathy might be excited by their wails of real or affected anguish ; or if disappointed, they seldom failed to vent a torrent of abuse on those who were unmoved by their recitals, or who disapproved of their importunity. To increase the horror and disgust of the scene, the ear was continually assailed by the clank of fetters, or with expressions the most obscene and profane, loudly and fiercely uttered, as by the lips of demons.

“ The keeper derived his appointment from the sheriff of the city and county of Philadelphia ; and had been for many years retained in office, on account of his supposed competency for a charge so disagreeable, as to excite neither desire nor competition on the part of persons better qualified to occupy the station. Indeed the circumstances, under which the incumbent had been long connected with criminals, caused him to be suspected of a more intimate knowledge of the depredations committed in the city, than comported with that unblemished reputation which ought to belong to such an officer. Whether justly suspected or not, certain it is, that he viewed the first interference of the members of the society as altogether improper and unnecessary, and contrived to interpose every possible obstacle to the prosecution of their plans ; a deportment which went far to confirm the unfavorable opinions entertained of his character. An anecdote, related by one of the acting committee, exhibits at once the disposition of the jailer, and a specimen of the arts to which he resorted for deterring the members of that body from the discharge of their duties. The gentleman alluded to was a clergyman, (the late William Rogers, D. D.) who, believing that benefit would result to the prisoners from an occasional sermon, called on the keeper to inform him of his intention to preach ‘ on the following Sunday.’ This proved most unwelcome intelligence to the keeper, who instantly declared that such a measure was not only fraught with peril to the person who might deliver the address, but would involve also the risk of the escape of all the criminals, and the consequent pillage or murder of the citizens. To this the clergyman answered, that he did not anticipate such a result, and for himself he did not apprehend even

the slightest injury. Leaving, however, the keeper utterly unconvinced, he waited upon the sheriff, who, on being told what had passed, issued a written order to the jailer, to prepare for the intended religious service. At the appointed time the clergyman repaired to the prison, and was there received with a reserve bordering on incivility. The keeper reluctantly admitted him through the iron gate, to a platform at the top of the steps leading to the yard, where a loaded cannon was placed, and a man beside it with a lighted match. The motley concourse of prisoners was arranged in a solid column, extending to the greatest distance which the wall would allow, and in front of the instrument prepared for their destruction in the event of the least commotion. This formidable apparatus failed to intimidate or obstruct the preacher, who discoursed to the unhappy multitude for almost an hour, not only unmolested, but as he had reason to think, with advantage to his hearers, most of whom gave him their respectful attention, and all behaved with much greater decency than he expected. This sermon, it is asserted, was the first ever delivered to the whole of the prisoners in Philadelphia, and perhaps it preceded every attempt of the kind in any other city. Be that as it may, the duty in this case was performed under very extraordinary circumstances. Not long afterwards, when Bishop White, the President of the Society, was about to officiate in the same prison, the keeper, with similar designs, very significantly advised him to leave his watch on the outside of the gateway, lest it should be purloined; but the intimation was disregarded, and the service administered without molestation." Page 12 - 17.

The Philadelphia Society, condemning all these abuses, and earnestly recommending their correction, laid it down, in the outset, that the great engines of correction were *solitude* and *labor*. Such was the effect of their appeals to the Legislature, and their influence on public opinion, that an act was passed on 5th April, 1790, at their suggestion.

“This act repealed all the former laws upon the subject, and completed the essay of the penitentiary system ; after providing the punishment of hard labor for certain offences, it directed, in the 8th section, that the commissioners of Philadelphia county should cause a suitable number of cells to be constructed, *six* feet wide, *eight* feet long, and *nine* feet high, ‘for the purpose of confining therein the more hardened and atrocious offenders, who may have been sentenced to hard labor for a term of years. Separation between convicts, vagrants, and persons charged with misdemeanors, was directed to be enforced ‘as much as the convenience of the building would admit.’ The convicts were to be clothed in habits of coarse materials, uniform in color and make ; the males were to have their heads and beards shaved close, at least once in each week ; they were to be sustained on the coarsest food, and held to labor of the hardest and most servile kind, during which they were to be ‘kept separate and apart from each other, if the nature of their several employments will admit thereof ;’ and ‘where the nature of the employment requires two or more to work together, the keeper of the jail or one of his deputies shall, if possible, be constantly present.’ A subsequent section enacted, that if proper employment could be found, the prisoners might also be permitted to work *in the yard* ; provided it were done in the presence, or within view of the keeper or his deputies. The numbers of hours of work was also prescribed, viz. : *eight* in November, December, and January, *nine* in February and October, and *ten* in every other month.

“An act, passed on the 22d of April, 1794, (3 Smith’s Laws, 186,) provided, (sect. 11,) that persons convicted of crimes, which by former laws were punishable with death, (except murder in the first degree) should be kept in the solitary cells, on low diet, for such portion of the term of imprisonment, (not more than one half, nor less than one twelfth part thereof,) as the court in their sentence should direct and appoint. The act of the 18th April, 1795, (3 Smith’s Laws, 246,) enacted that the inspectors of the prison should have full power to class the different prisoners, in such manner as they should judge would best promote the object of their

confinement. The provisions of the act of 1790, which directed that the clothing of the convict should be of the coarsest materials, and their labor of the hardest and most severe kind, were repealed ; as was also a clause of the same act, which allowed the keeper of the prison a commission of five per cent. on the sale of articles manufactured by the convicts.

“ These are the chief provisions of the acts relating to penitentiary punishments. It will be seen, upon examination, that they contemplated a system of classification, at least, as between the tried and untried, of severe and unremitting labor during the hours at which labor is practicable by daylight ; and of separation of the offenders, during the period of labor, where the nature of the employment permitted of it. No provision was made, however, for any general system of solitary confinement, nor even for the solitary confinement of any class of criminals, during the whole period of imprisonment. All that appears to have been contemplated was solitary confinement, for a greater or less term, according to the sentence of the court, and the subsequent return of the offender to the society and intercourse of other convicts. Certainly, no provision was made for separate dormitories, or separation during meals. The size of the cells, which the act of 1790 required to be constructed, seems to negative the idea of their being intended for the separate confinement of individuals. The cells in the Auburn prison are only *seven* feet long, *seven* feet high, and *three* and a half feet wide, and are sufficiently capacious for the intended purpose. The area of the cells at Philadelphia, according to the directions of the act, was to be more than twice this size, or as 48 to 21. It is evident that the limits of the prison would not have admitted of the construction of cells of this size for more than a small number of prisoners. And it soon became evident, that the cells constructed by the commissioners were not sufficiently numerous even for ‘ the more hardened and atrocious offenders.’ Consequently, the intercourse between the convicts, both by day and night, become constant and corrupting.” *Report of the Commissioners of Pennsylvania, December 24, 1827.*

Under the act of 1790, before the end of that year, twenty-four solitary cells were built for the safe keeping and proper correction of the obstinate ; moral and religious instruction was provided for, by introducing bibles and other religious books, by having divine service performed once a week by the clergy of the neighborhood, and by allowing other edifying persons access to the prisoners at all times ; a regular course of labor was kept up ; the sexes separated ; spirituous liquors prohibited ; improper connections from without excluded ; and the refractory confined to solitude, low diet, and hard labor ; jail fees and garnish being at the same time abolished.

In the reports of the Inspectors to the Governor of the state, dated Dec. 7, 1791, when the system had been in operation about one year, is this passage :

“From the experiments already made, we have reason to congratulate our fellow-citizens on the happy reformation of the penal system. The prison is no longer a scene of debauchery, idleness and profanity ; an epitome of human wretchedness ; a seminary of crimes destructive to society ; but a school of reformation, and a place of public labor.”

An account of this system was published in 1793, when it had been somewhat more than two years in operation, drawn up by Caleb Lownes, one of the inspectors of the prison, from which we learn, that in case of improper behavior, which had very seldom happened, the prisoners were removed to the solitary cells, and abridged in their diet, any material variation from the rules of the prison being thus punished. There had

been only one instance of refusal to work, which was in this way soon remedied ; and but one other case of a wilful violation of the rules among the male prisoners had occurred, which was that of two men fighting, who were both punished in the same manner.

The men convicts were lodged on the second floor of the East wing, a floor containing five rooms, each of nearly twenty feet by eighteen, one of them occupied by the shoemakers for a shop, one for the tailors and barber, and the other three for lodging rooms. From this and other authorities, it is clear, that those engaged in the same occupation labored together during the day, and that many slept in the same room together at night. It is stated, that with an average of rather more than one hundred convicts, the penitentiary was conducted for several years with encouraging success. At one time, however, it is remarked that the number was only thirty-seven ; of whom ten were women. This was on the third day of December, 1792, and the smallness of this number may be explained by the consideration, that as nearly two hundred were pardoned in the two first years, many of them may have been released at about the same time.

The result of these improvements for those two years is set forth in the same account. After stating that of the large number thus pardoned only four had been returned ; it proceeds as follows :

“ As several of those thus discharged were old offenders, there was some reason to fear that they would not long behave as honest citizens. But, if they have returned to their old courses, they have

chosen to run the *risk* of being hanged in other states, rather than encounter the *certainty* of being confined in the penitentiary cells of this. We may therefore conclude, that the plan adopted has had a good effect on these ; for it is a fact well known, that many of them were heretofore frequently at the bar of public justice, and had often received the punishment of their crimes under the former laws.

“ Our streets now meet with no interruption from those characters that formerly rendered it dangerous to walk out in an evening. Our roads in the vicinity of the city, so constantly infested with robbers, are seldom disturbed by those dangerous characters. The few instances that have occurred of the latter, last fall, were soon stopped. The perpetrators proved to be strangers, quartered near the city, on their way to the westward.

“ Our houses, stores, and vessels, so perpetually disturbed and robbed, no longer experience those alarming evils. We lie down in peace, we sleep in security.

“ There have been but two instances of burglaries in this city and county for near two years. Pickpockets, formerly such pests to society, are now unknown. Not one instance has occurred of a person being convicted of this offence for two years past. The number of persons convicted at the several courts have constantly decreased ; thirty and upwards, at a session, have frequently been added to the criminal list : at this time, when both city and county courts are but a few days distant, there are but *five for trial* ! Such have been our measures, such is the state of things, and such the effect. If any one can assign other causes for them, than are here adduced, they must have other opportunities, other means of information than I am acquainted with.” *Lownes on Penal Laws of Pennsylvania.*

It is not at all surprising, that those, who had witnessed the previous condition of the prison, should speak of it, at that time, with unmingled and unbounded admiration. But it may well surprise us, with our

present experience, that such an instantaneous and complete reform, not only in the prison, but in the whole condition of society, as some of these statements would indicate, should be supposed to have been brought about by this new system of prison discipline, from the very first moment of its adoption. Perhaps other causes might now be discerned coöperating with it, but it is not material to the present purpose to discuss them. The facts of course are not doubted, and it is enough that no other cause for them appears then to have been thought of, and that they were ascribed to this alone.

As these statements were more and more widely circulated, it was natural that this new penitentiary system, as actually established in Philadelphia, should be hailed throughout America, and wherever known in Europe, as absolutely perfect. True, it did not enforce the entire solitude originally suggested by the Philadelphia Society; but, on the contrary, employed many together in the same workshop by day, and lodged many in the same room at night. But its triumphant success seems to have precluded all questions on this head; and the very idea of separating each convict from all others, either by day or by night, if not formally renounced, appears to have been entirely lost sight of, for many years. Many other States, indeed all those which, within twenty-five years afterwards, were willing to establish the best of all possible systems of prison discipline, built penitentiaries, some at great cost, which were exactly adapted to this system

as it existed practically in Philadelphia, and which allowed a like degree of intercourse by day and by night.

Prisons were established upon this plan, at New York, in 1796 ; Richmond, Va. in 1800 ; Charlestown, Mass. in 1804 ; Windsor, Vt. in 1808 ; Baltimore, Md. in 1811 ; Concord, N. H. in 1812 ; Cincinnati, Ohio, in 1816. Similar prisons were also established in New Jersey, Tennessee, and Kentucky.

Meantime this system, on further trial in Philadelphia, was seen by those who watched its operation closely, to produce results very different from those first ascribed to it. The earliest indication we can now trace of this change was an increase in the number of convictions. It has been seen that their diminution during the first three or four years was relied on as conclusive proof of the success of the system. Their number had gradually diminished from 131, in 1789, to 45, in 1793. But it gradually rose again to 145, in 1796, thus somewhat exceeding the number before the reform, but so little, as not to authorize the conclusion, that the result of this new system itself, at that time was either an increase or a diminution of the number. From this time till 1807, it increased at least as fast as the population ; and thenceforward in a manner quite alarming.

In a statistical view published in 1817 by the Philadelphia Society, the Penitentiary is spoken of as an institution which "already begins to assume, especially as respects untried prisoners, the character of an Eu-

ropean prison, and a seminary for every vice, in which the unfortunate being who commits a first offence, and knows none of the arts of methodized villany, can scarcely avoid the contamination which leads to extreme depravity, and with which, from the insufficiency of the room to form separate accommodations, he must be associated in his confinement." p. 23. This change is ascribed to the increased number of prisoners, and it is remarked, that in the beginning, "the rooms in the prison and the prison yard afforded convenient and ample room for the separation and employment of the convicts." It was probably by some such general and vague remark as this, that the Commissioners of Massachusetts, or their informants, were subsequently misled to make the statement contained in their report in 1817, that "during a few years after the establishment of the penitentiary at Philadelphia, this institution was provided with sufficient room and the proper accommodations for the separation of the convicts from each other. By the vigilance of the keepers, all intercourse and communication, was prevented by day, and at night the prisoners were lodged in solitary cells." p. 87.

The incorrectness of this statement is certain from contemporary and official documents, as well as from the publications of the Philadelphia Society itself. A similar error is made in the same report with regard to the penitentiary at New York, of which it is said, that it "was as successful in its operation, as that of Pennsylvania formerly was, while under like favorable circumstances, when the prisoners were properly assorted

while at work and at meals, and the influence of solitary confinement at night was added to that of a faithful inspection on the part of the keepers during the day." The rooms in the New York penitentiary were 12 feet by 18, and originally designed for the accommodation of eight persons in each, which number was soon exceeded. At the present day, all men in this country, however they may differ on other points, concur in the opinion, that allowing convicts to remain together in the same room at night without restriction or control, must be fatal to any system of prison discipline. No doubt the evil resulting from this practice was rendered more extensive and more obvious by the increased number of the prisoners ; but under any circumstances, it would now be deemed altogether intolerable.

Yet from 1793 to 1801, notwithstanding the increase in the number of convicts in Pennsylvania, we find no objection to this practice, and indeed no mention of it or of its consequences by the officers of the prison or from any other quarter, not even from the Philadelphia Society. But in 1801, in 1803 and subsequently, this excellent and vigilant society presented memorials to the legislature of the state reminding it, that they had originally recommended solitude as well as labor, and requesting that provision should be made, if not for entire solitude, at least for separating the convicts into smaller classes. These however producing no result, the evil became at length so extensive and alarming, that in 1817 they published to the

world the statistical view above cited. This appeal at once roused the public mind and gave a new turn to the current of opinion in America. The discussions to which it gave rise, led in a few years to the universal admission, that the system practically in operation in Philadelphia ever since 1790, and which had been adopted and pursued by so many other States, had been too hastily deemed perfect, on the strength of a few years' experience, and too implicitly adhered to, in spite of so many more years experience of its evils; and that the prisons founded on it were in fact not schools of reform as had been fondly fancied, but seminaries of utter depravity and corruption.

Thus completely disappointed in their expectations of success from the system first established in Philadelphia, and afterwards in so many other places, certain zealous advocates of a reform in prison discipline, by a revulsion not unnatural, resorted to the opposite extreme, and since labor without solitude had failed, proposed the plan of solitude without labor. Some of the most prominent arguments in favor of this new scheme were professedly founded on the principles of the human mind and the nature of things and other such "branches of learning" as are usually resorted to only for want of better reasons, and less frequently used to aid us in forming opinions than in defending opinions already adopted. In themselves and independent of experience, they are little worth, since who shall determine in what the nature of things and the principles of the human mind consist?

It was alleged, in substance, that the principles, upon which the avoidance of crime is founded and repentance brought about, are these :

“ 1. A tiresome state of mind from idle seclusion ; 2. Self-condemnation arising from deep, long-continued and poignant reflections upon a guilty life. All our endeavors, therefore, ought to be directed to the production of that state of mind, which will cause a convict to concentrate his thoughts upon his forlorn condition, to abstract himself from the world, and to think of nothing except the suffering and the privations he endures, the result of his crimes. Such a state of mind is totally incompatible with the least mechanical operation, but is only to be brought about, if ever, by complete mental and bodily insulation.” *Mease on Penitentiary System*, p. 73.

This frame of mind cannot take place “ so long as a convict is occupied by manual labor, or the slightest occupation either in society with fellow-convicts, or in a solitary cell.” If the promotion of this is the main object, if it is good, that some time should be devoted to it, the more time there is devoted to it the better. It should engross the whole time. Let religious instruction and repentance be the only occupations of the convict, from which his attention shall never be distracted by worldly intercourse or worldly toil. Thus his reformation will be more speedily accomplished ; and the time of his imprisonment may be shortened, with benefit both to himself and to the public.

Such was the conclusion adopted by many intelligent and benevolent men, influenced by no other motive than a sincere desire to promote the interests of humanity. Whatever may be thought of the correct-

ness of the conclusion itself, it by no means follows from the premises. The argument on which it rests is false logic, for the premises are particular, while the conclusion is universal. If unrestricted intercourse or unremitted toil be a mischief, it is plain that they should be restrained and limited ; but it does not follow, that they should be abolished. If some time for meditation is good, it does not follow, that it is better to meditate all the time. Some time for sleep, for exercise, for society, is good ; but it does not follow that the whole time should be devoted to either. It is better to restrain appetite, than to indulge it without limit. Is it, therefore, best of all to annihilate it? Surely not. It is a question of more or less, and the just limit in any case can only be determined by experience ; all reasoning on it *a priori* being futile. Yet such reasoning, and false reasoning too, was not without its influence in establishing and maintaining for a time a system, which however humanely intended, caused, in fact, much disease of body and of mind, terminating not infrequently in death or insanity.

In 1818 an act was passed by the legislature of Pennsylvania providing for the erection of a penitentiary at Pittsburg, "on the principle of solitary confinement of the convicts as the same now is or hereafter may be established by law ;" and directing that it should "be constructed on the plan exhibited to the legislature by the inspectors of the city and county of Philadelphia." This prison was not completed so as to receive convicts till July 1, 1826. It was designed

for solitary confinement without labor, and when built it was found, that there was perhaps no trade or occupation, at which a convict could work in any of the cells. It was subsequently found, also, that the cells were so constructed as to admit of free conversation among the convicts, and this prison was taken down in 1833, and another built in its place, intended to preclude all intercourse and to provide for solitary labor. Yet even of the first prison the inspectors say, in 1829, "Constant confinement in these cells is found incompatible with the health of the convicts, and we have found it necessary to permit two or three to be out alternately, which gives an opportunity of intercourse to about twenty, that greatly diminishes the benefit of solitary confinement."

The penitentiary at Philadelphia, called the Eastern, and built in conformity with an act of March 20, 1821, was originally intended, like that at Pittsburg, for solitary confinement without labor, but was not completed for the reception of convicts till 1829, in which year an act was passed providing for the introduction of solitary labor into the penitentiaries of Pennsylvania; and since that time this has always formed a part of their system.

The progress of opinion and of improvement on this subject in the State of New York was not dissimilar. The attention of these two great States was early called to it from the circumstance, that their capitals rivalling each other, and far surpassing any others in America, in population, wealth and luxury, were the chief thea-

tres of temptation and of crime. Some distinguished citizens of New York visited Philadelphia in 1794, to examine the penitentiary there and become acquainted, in all its details, with the practical operation of a system which was declared to have produced such instantaneous and wonderful results; and on their representation to the legislature of the State a new penitentiary was established in the city of New York in 1796, on the same system, providing for regular labor by day, but not for entire separation either by day or by night.

A report to the Senate of New York, in 1822, contains the following statements:

“For a few years after the first establishment of our state prison, *the institution seems to have realized all the most sanguine hopes of its humane projectors.* The name of it inspired some dread among criminals, and its government *was conducted with a degree of zeal and attention which often gives flattering success to new institutions, but which can hardly be expected to last always.* Accordingly in the report of 1803, we find that the labor of the convicts *came within a small amount of the expense of their sustenance,* and the inspectors express an opinion, ‘*that no penal system in any state was less expensive, and more fully answered the intended purpose;*’ but this report contains the first ominous intimation that ‘*there will soon be a want of room.*’ *

“For eighteen successive years since that time, the state prison reports exhibit *a distressing struggle against embarrassments and difficulty of every kind.* They state the overwhelming number of convicts; their profligate and abandoned character; the impossibility of making their labor maintain them; pecuniary embarrass-

* Meaning, of course, not a want of room for solitary confinement, for of this there was no thought, but for containing the convicts without crowding them.

ment in the affairs of the prison ; enormous demands upon the public treasury, without the intermission of a year ; new and fruitless endeavors to make labor productive ; the fearful progress of the prisoners in corrupting one another ; and, finally, fires and dangerous insurrections."

In 1817, commissioners appointed by a special act to examine the state prison, describe the prisoners as mutually corrupting and being corrupted by each other, and as leaving the prison more confirmed in their vicious propensities than when they entered it. In 1820, another board of special commissioners admits, that from some cause or other, "*penitentiary punishments have entirely failed of producing the results originally anticipated from them ;*" and that crimes have multiplied to an alarming degree. The report of the committee of 1822 contains also the following passages :

"Neither have *any exertions been omitted to remedy the defects*, which from time to time have been observed, and to furnish motives to the prisoners for reformation. *Expensive establishments have been formed for their employment at labor*, by which they would acquire the means of an honest livelihood. Schools are established in the prison ; a very worthy and pious clergyman is employed for their religious instruction, and rewards are reserved for the most deserving, derived from part of the avails of their labor. *Classifications have been introduced* according to their supposed moral characters ; and finally, laws have been passed to exclude from the prisons all who are convicted of small offences. Still the number of convicts now is greater than at any former period, and they are described in the official report as '*desperadoes*,' and '*the most abandoned and profligate of the human race.*'

"Upon the whole view of our state prison system as *hitherto conducted*, your committee are compelled to adopt the conclusion, that

so far as reformation is concerned, *it has wholly failed*; and not only so, but that *it operates with alarming efficacy to increase, diffuse and extend the love of vice, and a knowledge of the arts and practices of criminality.*" *Report to Senate, 44.*

"Punishment is not revenge; and rightly considered, it has less reference to *the subject of it*, than to *the spectators*. That punishment would be most proper, which, with the least suffering and pain inflicted upon the recipient, should make *the strongest impression upon the public mind*.

"But to make any impression upon the minds of either convicts or the public, there must be *suffering*; and to make any *adequate* impression, *such suffering* as will excite feelings of terror: and the highest and best purpose of punishment is only then well answered, when the punishment inspires *the minds of observers, especially of youth, with a salutary horror of the consequences of criminality*. But whatever may be the individual opinion of the committee, they have borne in mind that nothing can be made effectual, which the public sentiment does not sanction. They have further considered the necessity of putting an end to that wasteful course of expenditure, which for so many years has exhausted the resources of the state upon prisons and prisoners: and they have concluded, that more perhaps cannot usefully be done at present, than to begin a reformation which future legislatures may in their wisdom perfect, as time and experience shall enable them.

The most important alteration which they have to recommend, is *the abandonment of labor* as an engine of punishment, and the substitution of *severe, but short confinement in cells, with solitude, silence, darkness, and stinted food of coarse quality*. With the abandonment of labor in any prison, may be given up a vast and expensive list of shops, implements, inventories of stock, and bad debts, with the expenses of a guard; a separate agent may be dispensed with, and *a diminution of perhaps half, effected in the expenses of rations for the prisoners*. The necessary expense of keeping one thousand prisoners in one prison, will then be *a small amount for each.*" *Report to Senate, 48, 49.*

A report, drawn up by men of great distinction and influence, and published by the Society for Preventing Pauperism in New York, in 1822, sets forth the sentiments then generally entertained there, in the following language:

“Wherever solitary confinement has been tried, it has produced the most powerful consequences. In the state prison of Philadelphia, offenders of the most hardened and obdurate description — men who entered the cells assigned them, with every oath and imprecation that the fertility of the English language affords — beings, who scoffed at every idea of repentance and humility, have, in a few weeks, been reduced, by solitary confinement and low diet, to a state of the deepest penitence. This may be set down as a general result of this kind of punishment, in that prison. In the New York penitentiary, many striking instances of penitence and submission have also been afforded. Where prisoners were peculiarly refractory and vicious, they have been placed in solitary cells, and insulated from every human creature. Even the messengers who carried them their food, were enjoined not to utter a syllable in the discharge of their diurnal duties. The most overwhelming consequences were the result. The spirit of the offender was subdued, and a temper of meekness and evidences of contrition displayed. A resort to this discipline never failed to accomplish its end.

“But, it will be asked, do we recommend an entire suspension of all labor in our penitentiaries? We answer in the negative. We are sensible that such a proposition would not meet with currency in the different States, nor do we, at present, perceive the necessity of its general adoption. But the committee would recommend that solitary confinement be adopted, to a far greater extent, than has heretofore been thought of in this country. They would separate this punishment into two kinds: first, solitary confinement, without labor; and secondly, solitary confinement, with labor. Could these two methods, in the treatment of offenders, be

universally and exclusively adopted in the various penitentiaries of this country, and all intercourse and all kinds of communication among prisoners be prevented; could they be wholly precluded from even seeing each other's faces, a new era would soon appear in the history of our criminal laws.

“It appears to the committee, that in all cases where the convict is of a desperate character, and where his crimes are great and manifold, that his imprisonment should be spent in complete solitary confinement, free from all employment, all amusement, all pleasant objects of external contemplation. Let his diet be moderate, and suitable to a man placed in a narrow compass for the purpose of reflecting on his past life, and on the injuries which he has done to society. This would produce other effects on experienced offenders, than imprisonment, with several hundred brother villians, where free intercourse, by day and by night, is permitted; where rich soups and airy apartments are prepared for their reception, and where a school for guilt is established — where all the evil passions of man flourish in rank and poisonous luxuriance. Six months solitary confinement, in a cell, would leave a deeper remembrance of horror on the mind of the culprit, and inspire more dread, and prove a greater safeguard against crimes, than ten years imprisonment in our penitentiaries, as they now are managed. Who but would shudder at the bare idea of returning again to the dreary abodes of wretchedness, sorrow and despair, in the narrow limits of a solitary cell? The memory of long and miserable days, and of sleepless and wearisome nights once spent there, would come over the mind like the dark cloud of desolation, and terrify and arrest the guilty in the career of outrage. Employment tends to destroy the effects here pointed out. It diverts the mind, calls forth a constant exertion of the physical faculties, and renders men unconscious of the lapse of time. To felons, whose minds should be broken on the rack and the wheel, instead of their bodies, and who can only have their obstinate and guilty principles crushed and destroyed by severe treatment; no kind of labor should be given, while it is intended that solitude, complete and entire solitude, should be left to do its effectual work.

Sooner or later, this mode of punishment will be adopted in the United States. It is founded on sound principles of philosophy, applicable to the nature of the human species." *Report*, pp. 51 — 53.

"The other kind of solitary confinement might be designated for the most hardened felons, after they had passed through a sufficient course of discipline in solitude, without labor. Their first relief should be the application of their time to that sober industry which they had discarded for the devices of guilt and the commission of crimes, before their sentence to the penitentiary. It would also be proper for another class of criminals, of a lower grade, who might be doomed to solitary imprisonment and hard labor in the first instance. It is believed, by the committee, that the punishment would be found severe, salutary and effective. A long period of solitary confinement, without any labor, would have an unfavorable effect on the future ability of the convict to be useful in his peculiar pursuits. His mechanical capacity might be impaired by long inactivity." *Report*, 54, 55.

These passages sufficiently indicate the opinions then prevalent in New York, and which had already induced the legislature of that State to pass an act authorizing the inspectors of the Auburn Prison, begun in 1816, and partly built on the old plan, "to alter or change the interior plan originally adopted so far as to render the same more suitable for confining each prisoner in a separate cell." It was not, however, the purpose of the legislature of New York to establish the system of solitary confinement without labor definitively and universally, but merely to apply it to some of the more obdurate offenders, and even this by way of experiment.

An account of the Auburn Prison by the Keeper,

published in 1826, gives a statement of this experiment and of its results.

“The legislature passed an act, April 2d, 1821, directing the inspectors to select a class of convicts to be composed of the oldest and most heinous offenders, and to confine them constantly in solitary cells. At this period, the legislature and public at large had become so dissatisfied and discouraged with the existing mode and effects of penitentiary punishments, that it was generally believed, that unless a severer system was adopted, the old sanguinary criminal code must be restored. In dread of such a result, the legislature ordered the experiment of exclusive solitude, without labor, and it is now believed, that in avoiding one extreme, another was fallen into.

“In pursuance of this law, on the 25th day of December, 1821, there were selected eighty convicts and put into solitary cells.

“These convicts were kept remote from the rest, and where visitors were not allowed to go, but where an officer remained, day and night, as well to guard against the possibility of mischief or accident, as to enforce a perfect silence in the cells.

“They were not allowed to speak, except to the chaplain and to inform the officer they were sick, on which the physician was sent to examine them, and if necessary, they were removed to the hospital: other convicts brought their food to their cell doors, under the eye of an officer, and carried away what was necessary. Great care was taken by whitewashing and cleansing, to keep their cells and clothing pure and wholesome; and they were prevented from lying down in the day time.

“For a considerable time, we had the most entire confidence in the success of this experiment.” *G. Powers, on Auburn*, p. 32.

“A report was made to Governor Yates, as directed by said act; and in the summer of 1823, he visited the prison, personally, examined the solitary convicts, and after consulting with the inspectors and agent, determined to pardon them all, gradually, as their names should be sent him by the inspectors, except some, whose sentences would soon expire, and a few others to be put to labor, and which was done accordingly.

“ These measures were adopted for two reasons : First, that their punishment was changed and increased beyond their sentence : Secondly, that the health and constitutions of these surviving convicts had become alarmingly impaired.

“ The said act, of April 15, 1823, authorized courts, at their discretion, to sentence convicts for second offences to solitary confinement not exceeding two years. But there is not a convict now in this prison thus sentenced.

“ By the close of the year 1823 the solitary convicts were, principally, released, and a majority of them by pardon ; since which, exclusive solitary confinement has been discontinued, though the act requiring it is not yet repealed.” *G. Powers*, p. 35, 36.

“ A number of these convicts became insane, while in solitude ; one, so desperate, that he sprang from his cell, when his door was opened, and threw himself from the fourth gallery, upon the pavement, which nearly killed him, and undoubtedly would have destroyed his life, instantly, had not an intervening stove-pipe broken the force of his fall. Another beat and mangled his head against the walls of his cell, until he destroyed one of his eyes.

“ Nor was the effect of this constant confinement more favorable to reformation, than to bodily health. Of those who survived its shock upon their constitutions, twelve have been reconvicted and returned to this prison, whose average confinement, in solitude, was about twenty months. It is proper to observe, that several convicts, of the solitary class, are still in prison, who were released from solitary confinement and put to labor.

“ One of those pardoned committed a burglary, in this vicinity, the very first night after being released from a long confinement, but escaped conviction on some technical ground.

“ Some others are known to have so conducted as to be a terror in their neighborhoods, who have not been reconvicted of crimes, and not one instance of reformation, among that class, has been known.” *G. Powers*, p. 36.

“ In view of these facts, it cannot be considered singular, that an entire change of opinion was wrought on the subject of exclusive solitary confinement, without labor.

"We now believe, that solitude, combined with labor, applied to convicts under the rigid discipline of this prison, is much better calculated to achieve the end in view, and is, perhaps, the best possible middle ground between the two extremes of penitentiary punishment.

"The diversion and exercise arising from labor, which the convicts now enjoy, are certainly no more than is indispensable to mental and bodily health: and their earnings should have some consideration with the government.

"There is no doubt that uninterrupted solitude tends to sour the feelings, destroy the affections, harden the heart, and induce men to cultivate a spirit of revenge, or drive them to despair; although such may not always be the effect upon martyrs and patriots, whose devotion to liberty, or religion, may sustain their bodies and minds in health and vigor while suffering in a righteous cause. Yet solitude, to a certain extent, is indispensable in prison discipline. A degree of mental anguish and distress may be necessary to humble and reform an offender; but, carry it too far, and he will become either a savage in his temper and feelings, or he will sink in despair.

"With all the privileges enjoyed by the convicts in this prison, insanity is no uncommon occurrence. There are several now, more or less insane, who uniformly behaved well before their derangement, and who have never incurred any corporal punishment since their confinement.

"A desire, frankly to acknowledge and fully explore a dangerous error, which we believe has been fallen into, in carrying the doctrine of solitary confinement entirely too far, is the only apology for the tedious length of this article." *G. Powers*, pp. 37, 38.

The total failure of this experiment in the summer of 1823, led to the establishment of what is often called here, the Auburn system, involving social labor under strict inspection, with the prohibition of all inter-

course, during the day ; and the solitary confinement of each convict by night.

The experience of the other States which had adopted the Pennsylvania system of 1790, of social labor without separation at any time, was similar to that of New York and Pennsylvania, and the progress of opinion in them substantially the same. In all of them this system was so far superior to the system, or rather to the utter confusion previously existing, that it was everywhere, for a few years, the theme of constant, and often of exaggerated praise, though nowhere followed by such loud plaudits, and such high hopes as in Philadelphia, one reason of which no doubt was, that in the smaller prisons of the less populous States, the evils previously existing had not been so great or obvious. But everywhere, after a longer experience, it was condemned not only as ineffectual, but as demoralizing and pernicious.

The following extract is from a report made to the Society for the Prevention of Pauperism in the city of New York, in the year 1822 :

“ It is unnecessary to describe the internal and external structure of all the penitentiaries in the United States. The description of the oldest already mentioned, may be taken as a data. The Virginia, Maryland, New Hampshire, Vermont and Ohio prisons do not deviate from them in any particular, as to redeem the system from the errors which have been enumerated and which we shall illustrate. The rooms are all too large, and none of the prisons constructed on a plan to prevent the constant intercourse of criminals, or to divide and keep them in distinct and proper classes.

“ Here is one of the fundamental errors, that has defeated the

grand object of the penitentiary system in the United States. This is the greatest of all the defects that time and experience have revealed in the lapse of thirty years. It accommodates the internal police of our prisons, to the ruling propensities of human nature, and gives indulgence to the leading passions and inclinations of man. It baffles the adoption of all other rules and principles of discipline and organization, and we might as well attempt to raise a superstructure without a foundation as to make efforts for the perfection of a criminal code, while its first requisite is wholly wanting.

“The erroneous construction of our penitentiaries, has not, until recently, attracted that deep attention throughout the country which it deserves. For several years, everything relating to the system was viewed as a matter of experiment, and so far as it was adopted, it proved so much superior in its moral consequences, to the old sanguinary codes of the colonies, that the gain was deemed matter of congratulation, although the grand end was not attained. Besides, the number of convicts was much smaller than it is at present, the superintendents were frequently changed, the chain of observation was broken, and if the sagacity of observation detected defects, they were not so presented to the legislatures of the different sections of the Union, as to awaken their apprehensions. Hence, one State after another, each having distinct municipal laws, and distinct constitutions of government, went on imitating Pennsylvania and New York, in the erection of prisons, and adopted the errors and vices of the system, without an anticipation of disastrous consequences. The last prison on the old plan was erected at Cincinnati, in the State of Ohio, in 1816.” p. 19.

But in only three other States was the plan tried of confinement in constant solitude without labor, and then only on a portion of the prisoners, and by way of experiment: Maine, New Jersey and Virginia; and in all three its effects on the bodily and mental health of the prisoners led to its abandonment. It was main-

tained longest and latest in New Jersey. It was stated by the Keeper, near the end of November, 1826, that the cells were built in 1820, and that since that year seventy-seven convicts had been sentenced to solitary confinement for from eighteen months, to two years and, one for three years and six months, but only one of those discharged had returned. This last fact was urged as a reason for continuing this system in Pennsylvania. It appeared however afterwards, that the convicts in solitary confinement in New Jersey, could have free communication with those in the neighboring cells, so that the longer continuance of this system there than in any other State is not surprising.

Such was the practical result of the two earliest great experiments made in America for the improvement of prison discipline; the first involving daily labor without any solitude, and the second, constant solitude without any labor; and such the progress of opinion in relation to them. Both at first deemed perfectly successful, by those who established, and who administered them, they were both, at last, universally condemned, and were followed by two different systems, that of daily labor with separation by night only, originating at Auburn, and that of constant separation with labor, established in Pennsylvania; whence their names. The latter is now in operation in that State, and in New Jersey; the former in all the other States, which have any fixed system at all.

The single characteristic above-mentioned is still maintained in each; but in other respects, many of them

once deemed essential, both these systems have been greatly modified ; and the changes have generally been such as tended to mitigate the original severity of the systems. Thus in the year 1832, the official report of the Warden of the Philadelphia prison ascribes the diminution in the number of committals to the knowledge of the nature and discipline of the establishment, and particularly of three important features in it.

“ 1st. The entire separation of the convicts, both by day and night, and the seclusion from all except their keepers.

2d. Their being deprived from all intercourse or knowledge of every kind, with either their family or friends.

3d. That the friends of the system would use their endeavors to discourage the granting of pardons, so that the punishment might in all cases be certain ; and the determination of the board of inspectors to refrain from recommending the governor to pardon, as has been the practice in the old prison.” *Fourth Report.*

And in the report for the year 1836 the Inspectors cite, as a correct account of their system, a passage from Mr. Crawford, of which the following sentences show the strictness of the seclusion then maintained. Having spoken of Auburn he adds :

“ I do not wish it to be inferred that moral corruption can result from intercourse so limited, yet when men are day after day thrown into the society of each other, the irksomeness of imprisonment becomes impaired, and its terrors materially diminished. The Eastern Penitentiary imparts no such relief. Of the convicts with whom I conversed, many had been previously confined in the New York and other prisons where corporal punishments were frequent ; but these persons have declared that that discipline was less corrective than the restraints of continual solitude. When pris-

oners are associated, it is extremely difficult to cut off all intercourse from without. The arrival of new, and the discharge of other convicts, form constant channels of communication. In the Eastern Penitentiary the separation from the world is certain and complete. So strict is this seclusion, that I found, on conversing with the prisoners, that they were not aware of the existence of the cholera, which had, but a few months before, prevailed in Philadelphia. The exclusion of all knowledge of their friends is severely felt, but, although every allusion to their situation was accompanied by a strong sense of the punishment to which they were subjected, I could perceive no angry or vindictive feelings; I was indeed particularly struck by the mild and subdued spirit which seemed to pervade the temper of the convicts, and which is essentially promoted by reflection, solitude, and the absence of corporal punishment." *Eighth Report*, p. 6.

Yet in the report for 1845 the Inspectors say, "Intercourse with the prisoners is constant and beneficial, and their solitude exists only in the imaginations of those who prefer to condemn before they understand this system of penitentiary punishment. And they quote with approbation this passage from a distinguished writer:

"The *separate* system has but one essential condition: the absolute separation of the prisoners from intercourse of any kind with each other. On this may be ingrafted labor, instruction, and even constant society with the officers of the prison, or with virtuous persons. In fact, these have become, in a greater or less degree, component parts of the system. In constant employment the prisoner finds peace; and in the society with which he is indulged an innocent relaxation and a healthy influence. This is the Pennsylvania system." *Seventeenth Report*, p. 8.

Provision has also been made for instruction since

the first establishment of the system, by the appointment of a moral instructor and school teacher.

Changes no less important have been made in the system of social labor since it was first established at Auburn. The severity of its punishments and the authority of subordinate officers to inflict them were both disapproved from the beginning in Massachusetts; and specially guarded against by express provisions, when this system was introduced at Charlestown.

But the condition of this prison is not a mere matter of speculation to the people of Massachusetts. The institution is entirely under their control. They are responsible for it, and are bound to know not only the nature of the system, but the manner in which it is administered, in order that they may correct any abuse or maladministration; and change the system itself, if they can find a better. On this subject, therefore, it may be practically useful to enter into some detail.

The prison at Charlestown resembles a great manual-labor school. The prisoners are not required to keep their eyes fixed upon their work and never to look up, as at Auburn, but simply to attend to their task as in a school. As in a school also, silence is required; and if this or any rule be violated, it is the duty of the master of the shop to report it to the head of the prison, the warden. The shops are spacious, light and airy, not surpassed and hardly equalled, excepting in such great establishments as those of the city of Lowell. The prisoners are engaged in active occupations, with

the exception of a few, who, from infirmity or other special cause, are employed in sedentary pursuits. These have time allowed them for exercise in the morning, and again in the afternoon, each one of course alone. Very few indeed of those sent to the prison are acquainted with any trade or business whatever, and on their admission the warden consults them as to their occupation, desiring that they should choose an active one ; but not commanding even this. They can hardly have a preference strong enough to prevent their complying with his advice, unless for some particular reason ; and accordingly the few instances of sedentary employment in this prison may be considered as exceptions from the general system.

They eat their meals in their cells, receiving them in tin pans from the kitchen window at the door of the prison. Each prisoner takes a bath once a week, excepting in winter, when the bathing is regulated by the physician. The mode of punishment is this. Whenever the master of a shop sees an offence committed he bids the offender stay out for punishment ; who accordingly, when the other prisoners retire to their cells, after prayers in the evening, remains at the foot of the staircase, where the warden hears the complaint and the defence or explanation and awards the punishment. If it is a first offence or a slight one, the culprit is commonly dismissed after an admonition, and a promise on his part to behave better in future. The other punishments are solitary confinement, with stinted food, or a flogging not to exceed ten lashes

for any one offence, inflicted in the presence of the warden. In the course of four years past this last punishment has been received by forty-five different convicts, by some of them several times. The greatest number of lashes inflicted on any one during that whole period is fifty ; and there are only eight persons, who in the course of that time, have received more than ten lashes, while some have received only three, some two, and the whole number of lashes inflicted during the four years is two hundred and forty-two.

Some benevolent and chivalrous persons think the infliction of a single blow with a lash a degradation, to which no one should be subjected, and which must crush the spirit and break the heart of a high-minded and sensitive man. This, however, is matter of opinion ; and every land and every class will have its own. It is said, that the introduction of this punishment into the French army would be fatal to good order and discipline ; while there is the highest authority for believing, that in the English army, they could not be maintained without it. On board our national and our merchant ships, it is the authorized and usual mode of discipline ; and corporal punishment is permitted in our schools. While this is the case, so much horror at its use in prison savors somewhat of romance. Prisoners feel in general on this subject much like the sailor. They do not like a flogging ; but it never enters into their heads to suppose it a stain upon their honor. Most of them regard it simply as the infliction of so much bodily pain. There are exceptions no doubt, and

in such cases it would not be applied here without the most imperative necessity ; reference being always had to the character of the offender as well as to the nature of the offence in this punishment. It is not imposed for a violation of the rule of silence, or any other rule of mere prison discipline, nor for any act which would not be an offence out of the prison. Perhaps the case of striking another convict is as common as any one which is thus punished.

The perfect coolness with which Englishmen, really benevolent, speak of dozens, and in the army and navy of hundreds of lashes for a single offence, utterly astounds us on this side of the Atlantic, and reminds us of what we have heard about the tortures of the Inquisition. Even in the prison at Millbank, near London, founded by philanthropy and administered with the kindest feelings, the greatest and most frequent punishment of this kind inflicted on adults during the year 1845, was thirty-six lashes and the least twenty-four ; while on boys the greatest was thirty-six, the most frequent twenty-four, and the very least eleven on a boy of ten years old, no less a number than sixteen being given in any other case ; so that the least punishment of this kind inflicted on a child at Millbank was greater than the greatest which the warden of the prison here is authorized by law to inflict upon the worst offender for the worst offence. The number of punishments in Charlestown, including the mildest, is said not to exceed on an average one a day.

There are several flower-pots in the windows of some

of the workshops, a convict being allowed to keep one or more of these with permission of the warden. By the same permission also they cultivate what they call gardens, of which there are now more than a hundred. These are boxes made of refuse boards a few feet square, filled with earth, in which they raise tomatoes, lettuce, cucumbers, onions and other vegetables, for their own use. To attend to these they are allowed by the master of the shop to quit their work for a few minutes at a time. Such of these vegetables as do not need cooking, the convict takes with him to his cell. Those requiring it he ties up in a small linen bag, which he marks and gives to one of the cooks, who puts it, at the proper time, having reference to its contents, into one of the caldrons where the dinner is cooking, and when it is ready places it in the pan of the convict, to whom it belongs. "This gives some trouble, but it pleases the men," was the remark of the warden on this subject.

In church on Sunday and at evening prayers during the week they have sacred music, vocal and instrumental in the chapel; the instruments belonging to the prisoners, being obtained from their friends, to whom the warden writes at their request; or purchased from funds, which they may have had on entering the prison, and which are always deposited in the warden's hands, who buys for them any instrument or book they wish, if he thinks it proper for them to have it. Those, who choose to do so, pass one hour every Saturday afternoon in the chapel, in the practice of music.

A society is established in the prison for moral improvement and mutual aid, of which the warden is president, with express authority to regulate and control all its proceedings. Any prisoner may become a member, unless the president object, by signing the constitution, which contains a formal promise to lead an orderly and virtuous life, and never to taste any intoxicating liquor after his discharge. This society holds its meetings once a fortnight; and at each meeting some question is stated for discussion at the next. A committee of conference is appointed to consider the best means of promoting the great objects of the society, consisting of the president, the vice-president, who is the chaplain of the prison, the secretary, who is its clerk, and six convicts chosen by a majority of the members, and approved by the president.

About three-fourths of the prisoners now belong to this society. It is not designed here to ascribe too much importance to it; still less to recommend its universal adoption. No doubt a somewhat correct tone of opinion and of feeling must be established in a prison, before it can properly be introduced. It is founded on the consideration, that convicts are to return to the society of men not so totally different from themselves, as some would represent; and on the belief, that though erring and criminal men, they are not such incarnate demons, that every word is infectious, and every touch contamination; but that on the contrary all such intercourse among them, as does not tend to corrupt them, to produce disorder or to interrupt

their labor; and takes place in the presence and within the hearing of the officers, engaging the sympathies and occupying and interesting the minds of the prisoners, is not only harmless, but humanizing and beneficial.

The prisoners have about five hours a day for reading and writing in their cells, an hour being allowed for breakfast, and an hour for dinner, which solitary meals are briefly despatched, and the prison being kept lighted in winter till nine o'clock in the evening. Each prisoner is furnished with a slate and pencil, and is taught and encouraged to write and cipher. There is a Sunday school at which about forty gentlemen in the neighborhood attend and hear those, who choose to do so, read from the bible, in small classes, teaching those to read, who cannot do it. These last are mostly of course from other places, for natives of Massachusetts, grown up and not knowing how to read and write, are not common at the present day even in our prisons. In most cases, however, there is much room for improvement.

There is a library in the prison, to the support and increase of which one hundred dollars a year is appropriated from the earnings of the prison by law, and books are taken out and returned by the convicts once a week. Many prisoners also have books of their own in their cells, purchased from their money in the warden's hands. One of them is now reading Latin and another studying Greek.

About a year ago a clergyman from Alton, in Illinois,

visited the prison, and was requested by the chaplain to perform the evening service ; after which he made a short address to the prisoners, a mark of attention from a stranger, which always gives them pleasure. He expressed his high gratification with the neatness, order, and contentment which prevailed there, and his particular delight in seeing the library, observing that they were much better off in this respect, than the inmates of the State Prison at Alton, who had no books at all.

The next day, as the chaplain was walking through one of the workshops, a prisoner having asked leave to quit his work and speak to him, told him, that he had some books, which he could spare, and should like to send to the prisoners at Alton, if permitted, and so had some of his shopmates. The chaplain, having conferred with the warden, stated in the chapel, after evening prayers, that such an application had been made to him, and added, that if any prisoner had books which he wished to send to the Alton prison, he might leave them in the adjoining room, on coming to prayers the next morning. He also sent word to his friend the clergyman, that if he would call at the prison the next day, he would find some books for Alton. The Reverend gentleman went accordingly, and took with him a large silk handkerchief to carry off the books. What was his astonishment to find in the room adjoining the chapel more than four hundred bound volumes, besides tracts and pamphlets ! The silk handkerchief would not do ; and the prisoners requested permission to make boxes to pack the books in.

The physician of the prison and two other eminent physicians, not connected with it, constitute a commission to inquire into all cases of suspected derangement, and on their certificate that it exists, the patient is removed to the State Hospital for Lunatics at Worcester. No females are sent to this prison, nor males under sixteen, nor any one for a shorter term than a year.

One of the first discouragements of the hope, that this new system of prison discipline might be of great and permanent benefit to society, was the difficulty of finding employment for the prisoners after their discharge. The experience of those who had employed convicts discharged from the State Prison under the former system made this a hard task. It was early proposed, as a remedy for this evil, to establish an institution in some agricultural part of the State, where persons leaving the prison might have occupation till they could find some other employment. Many enlightened and benevolent men zealously supported this project; but it met with some objections, one of which was, that such persons could not live together in considerable numbers, having free intercourse with each other, however much they might be supposed to be reformed, without danger of great abuses. A single corrupt individual among them corrupting others, each of whom would become a new corruptor, must soon reproduce all the evils of the older prisons. Another objection was, that any stranger seeking accomplices for the commission of some new crime, would immediately resort to this place, in the confidence that he

might easily seduce some one or other of its inmates, and would sometimes no doubt be successful. The only means of avoiding these evils would be to prohibit their intercourse with each other and with strangers, and in short to subject them to regulations similar to those of the prison itself. To these they would not voluntarily submit. Nor would the State compel them to do so by law, since this would be only prolonging their imprisonment, and in the end they would come out no better fitted for society, and no more likely to obtain employment than when they left the prison. The difficulty of finding occupation was indeed great, but it was not insuperable, for some had found it; and this difficulty would constantly diminish as it became generally known, that prisoners were more frequently reformed under the new system of discipline than under the old. In the mean time, and until public opinion, so far as it was erroneous on this point, should be enlightened and corrected, some inconvenience might be suffered; but it would be temporary, and far less than the permanent mischief likely to result from the plan proposed.

Notwithstanding these objections, an attempt was made to put this scheme in operation, but it was soon abandoned. If on account of these objections, this shows their validity. If on any other account, it shows that there are other objections, than those anticipated, fatal to the project.

The course now pursued in aid of discharged convicts seems to promise better things. An agent is ap-

pointed by the State, whose duty it is "to counsel such discharged convicts, as may seek his aid, and to take such measures to procure employment for such of them as may desire it, by corresponding with persons in agricultural and mechanical pursuits, and with benevolent individuals and associations as he may deem proper and expedient." *Law of March 22, 1845.*

Since this law was passed, a voluntary association has been formed here, called the "Boston Society in Aid of Discharged Convicts," which entirely coöperates with the present agent of the State, and indeed has appointed him agent of the Society also. His mode of proceeding is this. Knowing when any convicts are about to be discharged, he visits them in the prison, some time before and asks, whether they wish him to find places for them or aid them in any way, and if they want places, at what business and in what part of the country. A few will probably have already obtained places from the contractors; many state that they are going back to their friends, and sometimes aid is asked for this purpose, and many want employment. There have yet been only two instances of unexplained refusal of assistance. He requests every one who wishes his help to call on him immediately on leaving the prison, and in the meantime exerts himself to supply their wants; nor has he ever once failed to find for every one who asked it, employment at the work he wished, and in the part of the country he wished, at from one dollar to one dollar and three quarters per day, as soon as he left the prison or shortly after; some of the stone-cutters

have earned two dollars and a half per day. Those for whom a place is not ready immediately on their discharge, are supplied with board and lodging in a respectable family, at the expense of the Society, till one can be found. This generally happens in a few days. There is only one instance of its not being done within a fortnight.

This plan has been too short a time in operation to authorize any accurate estimate of the extent and value of its practical results. It should however be stated, that since the first project was suggested for establishing an asylum for discharged convicts, there has been a constant and very marked change of public opinion in this vicinity with regard to the employment of them; and this must be deemed far stronger evidence of the influence of this system in producing reformation than all the tables of relapses and reconvictions that could be produced.

One respectable cabinet maker informs me that within ten or twelve years past, from forty to fifty discharged convicts, whom he knew to have learned their trade in the State Prison here, have been employed in his establishment, and that he never has discharged one of them for bad conduct; nor ever wished to get rid of more than two or three, who left him of their own accord. It should be stated, that each prisoner, on his discharge, is furnished with a new suit of good clothes, and with five dollars in money, from the earnings of the prison.

While, however, it is proper that all these details

should be known here, they are not to be considered as essential to the system. Beside kindness, good order and moral and religious instruction, which belong equally to every humane system, there is nothing essential to this, excepting social labor with the injunction of silence, under strict supervision during the day, and solitary confinement in the intervals of instruction and labor.

But this then, it will be said, is not the Auburn system. So be it. No matter for the name. It has generally been called so here, because this peculiar combination of labor and solitude was borrowed directly from that system, as the essential part of it and the best; and it was wished to give credit where it was due. Those, who think that this is the essence of that system; and that the severe punishments and other peculiarities introduced with it at Auburn, are only accessories, will probably still call it so. Those, who deem them so essential that they are inseparable from the name, may give the system established here what name they please. Let them call it the system of JOHN HOWARD, for such, in substance and effect it is. After running a round of unsuccessful experiments for more than half a century, we have come back to him at last.

In his work on Lazarettos is his well-considered plan for the prison, which he wished to see established, containing a chapel for religious services in common, large workshops for labor in common, and small cells for solitary confinement, at all other times. The act

of Parliament of 1779, for erecting such a prison near London was drawn up, in entire conformity with the plans and views of Mr. Howard by his friend, Sir William Blackstone, and Mr. Eden, afterwards Lord Auckland.

“ Mr. Howard speaks of this act as having been ‘ a work of long and continued labor and inquiry,’ and Sir W. Blackstone states the principal objects of it to have been ‘ by sobriety, cleanliness and medical assistance, by a *regular series of labor, by solitary confinement during the intervals of work*, and by due religious instruction, to preserve and amend the health of the unhappy offenders, to inure them to habits of industry, to guard them from pernicious company, to accustom them to serious reflection, and to teach them both the principles and practice of every Christian and moral duty.’ ” *Holford on Millbank*, p. 2.

It is true, that the obligation of silence is not here mentioned. But the system could not have been put in operation, without its being at once perceived, that for the sake of order and of diligence, there was the same absolute necessity for requiring silence during the hours of labor, as in a great and well-regulated school during the hours of study. And in point of fact, in those prisons in England, where social labor by day is accompanied with solitude at night, no conversation is permitted during the time of labor. In the prison for juvenile offenders at Parkhurst, the boys are allowed to converse with each other while walking in the yards, but not when at work or in school. In the prison at Millbank, where persons under twenty years of age are employed in social labor, they may

talk together at meal times, or when exercising; but never while at work. *And this rule is strictly enforced.** It would have been so and must have been so by Howard, and as he required solitary confinement in all the intervals of work, thinking, no doubt, that vigorous labor was exercise enough, no conversation at all could have been permitted, and his system must have been in everything essential, exactly similar to that now established in Charlestown.

The systems usually designated in America by the names of Pennsylvania and Auburn, have undergone such important changes and modifications in different times and places, that those best acquainted with the facts, can form no estimate of the justice of any statement made in relation to them, without knowing the exact time and place to which it refers. I shall not, however, dwell upon these changes, nor discuss them at all, except in so far as they may appear to affect the question of social and solitary labor, to which I shall strictly confine myself.

In considering this question, I shall endeavor to illustrate my remarks mainly by the experience of the prisons of Philadelphia and Charlestown; and this,

1. Because they may be regarded as the model prisons here of their respective systems, or certainly inferior to none; and the experience of those where any material abuse is known or suspected to exist, would have little weight; and is in truth of little worth,

* R. L. C. 1847, p. 212.

since it is rarely possible to distinguish the effects of a system itself from those of its maladministration.

2. Because they resemble each other in other respects more than any other two prisons in America, which in this respect differ; as for example in the period, during which they have been in full practical operation, that is, since 1829; — in the number of their white prisoners; — in the mildness of their punishments, and generally in the benevolent spirit in which they have been administered; — and in the important particulars, that both are near large cities, in which the average rates of mortality at large, and, so far as I have been able to learn, the proportions of insane in the whole population, are not materially different; — that both are governed by intelligent and able officers, who command the public confidence; — that both are under the watchful observation of friendly societies, anxious to contribute by all possible means to their improvement; — and that both are within the view of large, enlightened and benevolent communities, who, upon the slightest suspicion, would be prompt, no doubt, to investigate and correct every abuse without fear or favor.

The only object, and the only justification of punishment by law is its tendency to promote the security of society by preventing, as far as may be, the recurrence of crimes; and to this end it acts as a warning to deter all men from committing them, and seeks at the same time, by reforming the culprit, to prevent their repetition by him. In former times the

vague idea, that the warning might influence all, while the reformation would act on one alone, led no doubt to a great neglect of the latter result as comparatively unimportant; no regard being had apparently to the consideration, that while it is true that the warning may deter many, it is no less true, that the convict, returning to society without reformation, may corrupt many. In those days a prison was designed as a place of punishment merely, a terror to evil-doers. Some benevolent men would now represent it as simply a school for improvement, an asylum and a moral hospital for guilt. It should be exclusively neither; but seek at once to punish and to reform, which are by no means incompatible under the administration of a mild but firm and manly discipline, equally removed from unnecessary sternness and from sickly sensibility.

So far as it operates merely by example to deter men from crime, no sufficient data appear at present to determine whether there is any and what difference in this respect between the influence of social and that of solitary labor. A recent work indeed, in arguing this question, and giving the preference to the latter, presents the following picture:

“Let us suppose, that, out of the six thousand visitors to the Charlestown prison last year, fifty were men who were conscious that their own course of life subjected them to the danger of becoming inmates;—who came for the purpose of knowing what the prison really was,—or to see an acquaintance who had been more unlucky than themselves, and had been caught. They examine everything closely; they see that the convicts are in full health, busily working at cleanly and healthy occupations, in large

and comfortable shops ; they see them take their full allowance of bread and meat and go into a small but clean and comfortable cell to eat their meals. It is very likely that some of them would say, — ‘ Well ! after all, this is not so very dreadful ! There ’s my old crony, Tom, or Bill, fat and hearty ; he has plenty to eat, good clothing and lodging, and plenty of company ! If worst comes to worst, I can bear it as well as he can.’ On the other hand, suppose such men are led by curiosity to visit the Philadelphia prison. They pass its gloomy portals, and walk up and down the long stone galleries to which all visitors are admitted. On each side are the low iron doors that secure the cells and hide the prisoners from the view. From some there comes no sound ; the dread stillness may, for aught the visitor knows, be that of death. From another cell is heard a faint noise of a hammer or a shuttle ; and it may be that there is shut up in it a feeble, pallid wretch, worn out with labor, solitude and suffering.

“ We believe that the same principles which operate in the human mind, and make executions in the privacy of the jail-yard more effectual in preventing crime than those in the public square, make the mysterious fate of the convict committed to a Separate-system prison more dreaded than the more certainly known amount of suffering of one who is committed to a Congregate prison.”

S. G. Howe on Prison Discipline, p. 23.

Unfortunately, however, for this argument, the same work, in attempting to prove that the social system is more cruel and severe than the solitary, makes a very different statement.

“ The evil effects of thus laboring in common, in the Congregate prisons, are aggravated by the severity of the labor which is requisite in order to prevent, as much as is possible, communication among the workmen.

“ How many a hapless convict, after a day of severe drudgery, when he is locked up in his narrow and cheerless cell at night, must, as he wipes the sweat from his brow, curse the labor which

to him is productive only of fatigue, made more painful by the thought that all the profits go to a sordid contractor or a sordid government ! Urged to labor by the dread of the lash, and deprived of that which sweetens it, he will be apt to detest it ; and there are many who will firmly believe that the courts, as the organs of government, purposely gave them long sentences that more might be made out of them.

“ Contrast the situation of men, thus driven in gangs to work, exposed to the gaze of every visitor, with the condition of a prisoner under the Separate system, who is shut up in a room as large perhaps, as the one he was accustomed to at home. He has his loom or his shoe bench at hand ; he is at liberty to work as long as he pleases, to rest when he is tired, to lay down his hammer and take up a book ; he knows that if he does more than a fair day’s work, the *over-stint* will be added to the small sum already placed to his credit, and be at his disposal when he goes out. Such a man learns to prefer work to idleness ; he forms habits of voluntary labor ; he sees in the work provided for him a proof of the kindness of his keepers ; and, knowing that the government makes nothing out of him, will not suspect it of cupidity or cruelty.” * p. 45.

These opposite statements cannot both be unvarnished representations of the truth. In reality neither of them is entitled to that credit. Among us neither of these modes of labor can render a prison a tolerable residence, or anything but a terror to evil-doers on the one hand ; and neither, on the other, can inspire them with so much terror as to prevent the commission of crimes. As to the degree of their relative influence in this respect, it is but a question of more or less ; and

* “ In some of these remarks we have spoken of the Congregate system rather as it is actually administered, and must allow that it admits of beneficial modifications without departure from its principles.”

whether there is any material difference, or any difference at all between them in practice, can be determined by nothing but close and long-continued observation.

The idea, that while the inmates of a separate system prison are in truth so very comfortable, and while so much pains are taken to make this fact universally known, those who visit it, or the far greater number, who do not, will indulge their imaginations in conjuring up phantoms of the sufferings endured in those solitary cells, and be deterred from guilt by such phantoms, which they must know to be unreal, seems too fanciful to be relied on as a practical security against crimes. The case is not at all analogous to that of public and private executions. There is no mystery and no conjecture about what happens in the latter; and the real objection to the former is that it brings together a great crowd containing an unusual proportion of the worst members of society, exposed to all the temptations and to all the corruption incident to such a crowd; and diminishes their natural repugnance to commit the worst of crimes, by familiarizing them with the sight of violent death.

There seems to be a similar inconsistency between the passages which maintain that in the system of social labor, there is and must necessarily be free communication among the convicts, and those which allege that they suffer the punishment of Tantalus in being cut off from all communication. Both statements are grossly exaggerated. Undoubtedly when the officer's back is turned, prisoners may exchange a glance or a word, but

no sustained conversation, no narrative of past achievements, nor projects for new ones can take place without detection. Mr. Crawford, no friend of this system, expressly admits that moral corruption cannot result from intercourse so limited, and makes it his only objection to it that it diminishes the irksomeness and the terrors of imprisonment.* It appears, from the last Report of the Prison Association of New York, that in the female prison at Sing Sing, the law of silence is no longer enforced.

“In the female prison at Sing Sing, where the number of the prisoners is small, the law of absolute silence no longer exists; and although this change was originally adopted as a measure of discipline, we would suggest, as it has been found to work well, whether it should not be continued as a measure of principle. We know that such a privilege might be liable to many abuses, yet under certain restrictions and limitations, with proper vigilance on the part of officers, the abuses to which it might lead would be infrequent, and the objections to it wholly avoided. The evil effects of intercommunion might be in part provided for; and in cases in which this could not be done, the difference would be, not that communication did not take place, but that in the one instance it was obtained through violation of law, and in the other with the consciousness of having done nothing that required concealment.”

3d N. Y. Pris. Dis. Rep. p. 36.

Too much importance, perhaps, is attached here and elsewhere to this last consideration. In a well-ordered school, boys are forbidden to speak to each other in study hours, yet who ever considered the stolen word, though contrary to rule, to be either the evidence or the cause of inordinate depravity.

* See page 45, above.

On the other hand the proposition that the natural craving for society, instead of being in any degree gratified, is exasperated by working together in silence; that the presence of others, under the prohibition of speaking to them, is tantalizing, tormenting, and more oppressive than unmitigated solitude, is certainly not self-evident.

There is society wherever there is sympathy; wherever we are conscious of the presence of others, engaged in the same pursuit, be it of business or of pleasure, with ourselves. Men while laboring actively and vigorously together are rarely disposed to conversation. How little is said in a busy workshop by any one, especially if he does not interrupt his work for the purpose of speaking? It is true, the workman can speak, and the convict may not, and this makes an important difference. But in church, where men may not speak, or in any other place where they meet together without speaking, for whatever purpose, whether the gravest or the most frolicsome, so it be a common purpose, they do hold communion with each other, though silent, and feel that they are ^{not} in solitude. Far different would be the feelings of any one of the number, if there were no human being near him to sympathize with and share in them, and he knew that he was alone.

There is often indeed some gratification of the social instinct, where there is no immediate sympathy. There is some relief from utter loneliness in the sight of a human form, however distant, in the sound of a human step, in the rustling of a garment; in anything which

makes a direct impression on the senses, that *some one is with us*. There is companionship in the presence of every living thing, which is conscious of our presence. Has the reader forgotten Robinson Crusoe, and his early intercourse with Friday, and the dog, and the cats, and the parrot?

How much indulgence of this natural propensity may be requisite to preserve the mental faculties from disease, how much to afford them the highest gratification, of which they are capable, and how much may amount to excess, and therefore be injurious, are questions of fact, which no speculation can determine. There is undoubtedly a great difference between different individuals. One rich in intellectual treasures, and accustomed to intellectual effort, will bear up under such privations far better than the usual inmates of our prisons. Whether such men as these generally are, can find sufficient food for this natural want, to preserve their bodily and mental health under this or that system of prison discipline, can be determined only by experience; and to this we must appeal.

The tables of recommitments, which have been published, do not at all authorize the broad conclusions which have been drawn from them, especially in the United States. The great extent of the country, its division into numerous States, all speaking the same language, yet each having its own laws and its own prisons; the facts that the citizens of each have all the rights of citizens in every other; that there are no passports or other restrictions on the free movements of

individuals ; and that practically, migration from State to State, is almost as easy, cheap, and frequent here as removal from one street to another in most parts of Europe ; all these enable a culprit, by a change of residence and of name, to conceal the circumstance of his previous conviction in another State, with perfect facility ; so that one man might be confined in many different places, and regarded in each as a first offender, while another — who had not changed his residence, for the very reason perhaps, that he had no deliberate intention to commit a new offence — upon being overcome by a sudden temptation, and recommitted to the same prison as before, might be deemed there an incorrigible criminal.

It does not follow that such tables should not be kept, but that due weight should be given to all these circumstances, in reasoning from them ; and that no deductions whatsoever should be drawn from temporary or inconsiderable variations, or from anything but long and uniform experience, especially in the absence of any plan of intercommunication for enabling the officers of every prison to ascertain whether any convict committed to it, had previously been confined in another.

So far as the reformation of the convict is concerned, the object of prison discipline is to induce him not merely to form good resolutions for the future, but to lead a good life, to support himself by honest industry. To this end, his labor must come into competition with that of the whole laboring community. If he would

live by his own exertions as they do, he must toil as they do, as regularly, as strenuously, as unremittingly ; or while they are occupied, he will find no employment. The only effectual mode of leading him to do this, is "to train him up in the way he should go," to accustom him to work steadily and diligently from eight to ten hours a day, with no other respite than the time requisite for his meals, and for a few brief intervals of rest. For thus he must do, if he would live by the labor of his hands, in competition with the honest industry of New England.

It is a great mistake to suppose that convicts in general are enterprising, sagacious, accomplished villains, who might easily be prosperous and distinguished among honest men, if they would only resolve to become so ; and who abandon themselves to crime from the mere wantonness of depravity. Far from it. Certainly it is not so here. A pretty close observation, for some years, of the character of the convicts in our prison, confirmed by the opinions of those best qualified to judge, warrants the statement, that a very large proportion of them consists of those who are not remarkable for energy or intelligence, who, if some occupation be not carved out for them, possess little of the spirit that will find or make one ; and who, above all, are enfeebled in body and in mind by inveterate habits of idleness, and the vices which idleness engenders.

The discipline best adapted to such men, the only one indeed, which affords any hope of their reformation, is that which inures them to constant and vigorous

toil, and which makes it easy by making it habitual. Those who urge that habits of labor acquired by compulsion cannot be continued from any other motive, when that compulsion ceases, ascribe too little influence to the power of habit. Practice, however acquired, renders that toil light, which without it would be intolerably irksome ; so that he who has been reluctantly inured to it by compulsion, will engage in it with alacrity for profit. A man unaccustomed to exercise, if compelled in any manner to walk twelve miles a day for a year or two, will find it infinitely more easy to do so afterwards, from whatever motive, than if he never had acquired the habit.

Neither is it in fact true, as has been alleged, that social labor is performed under the constant apprehension of punishment, while solitary labor is the result of good resolutions alone. With eight or ten hours devoted to labor, and about as much to meals and sleep ; five or six will still remain for moral and religious instruction, for reading, reflection and repentance, quite as much as can be profitably devoted to them by men of no more intellectual resources than the inmates of our prisons. Indeed, attentive and uninterrupted labor for an equal time, is as much an impediment to meditation, whether performed in solitude or in society. Under both systems there is abundant opportunity and motive for forming good resolutions, while the social laborer has the advantage of carrying these good resolutions at once into operation, and putting their sincerity to the test, under the immediate inspection of

those to whom he has expressed them, and whose constant presence must exercise a moral influence highly favorable to their fulfilment.

But it is frequently maintained, as one of the great advantages of solitary labor, that it is not compulsory and continuous, but entirely voluntary ; and that the convict may recur to work, to books, to meditation or to repose, and may abandon either as the inclination of the moment or the irksomeness of one unvaried position may dictate ; and this is called cultivating a habit of self-control. Is it not rather a habit of self-indulgence ? Must not the work, the reading, the meditation and even the repose itself, resorted to in this way, be almost invariably listless, languid and unprofitable, especially among those unaccustomed to exertion of body or of mind ; such indeed, as instead of fitting them to earn a living by honest labor, would seem as if it were devised for the express purpose of rendering any such result impossible.

But the same persons, who at one time attach so much importance to the assertion, that solitary labor is entirely voluntary, maintain at another, that it is compulsory, inasmuch as a stated task may be imposed, though it is alleged, that this is not necessary, and therefore not generally done. Voluntary and compulsory it cannot be at the same time and in the same sense ; and the only mode of giving an appearance of consistency to these contradictions is to suppose that a certain task is prescribed, and that it is left to the convict to perform it by continuous effort, or by fits

and starts at his option ; though in this case, it is not the labor, but only the mode of performing it, which is voluntary ; and it will be found, with few exceptions, that the work of the convict will be hastily huddled up at the last moment, and will be desultory, tardy, and ill done. This is not such discipline as will fit him for the world.

But, well or ill done, all that the officer knows about the matter is that the task is accomplished. He cannot know, whether by irregular and occasional efforts, which are comparatively of little worth, or with the vigorous and persevering exertion, the habit of which alone can lead to permanent reformation. Whereas under the system of social labor, the superintendent or teacher, readily discerns when the spirit of any one begins to flag, or his hand to grow weary of its task, and he will take a proper occasion to admonish the convict, that if he would have his good resolutions avail him anything, they must be carried into immediate effect ; that if he would be restored to the society of honest men, and live by honest labor, he must accustom himself now, not hereafter, but now, to cheerful and unremitting toil, till habit make it easy. Even the best disposed will need such admonition again and again, for it is not by a single momentary effort, that any inveterate habit can be conquered, least of all the habit of indolence.

The favorite maxim of JOHN HOWARD, which was constantly on his lips, and in his heart, and in all his plans for the good of prisoners was, *make them diligent and they will be honest.* And he was right.

Or if it be doubted whether honesty be the necessary consequence of diligence, it will be allowed, that they cannot attain and keep it if they are not diligent; and make them diligent or they will not be honest, will meet universal assent. This then is the great object of prison discipline. The idea, that its chief end is to induce them to form good resolutions for the future, especially if this is to be accomplished by enfeebling their bodies or their minds, is entirely fallacious. They may be easily led in general to form them by such means, but will be all the less able to carry them into effect; which is in all cases the real difficulty. The good resolutions thus formed, are like the proverbially fleeting resolutions of the sick bed, and will vanish with returning strength. They have as little chance of being fulfilled, as those of the distinguished personage, who resolved in his sickness that he would be a monk.

In order to enable the convict, after his discharge, to support himself contentedly by honest toil, the most important acquisition, next to the habit of steady, unremitted, persevering labor, is skill in his occupation, be it what it may; and it is obvious that this will be best acquired by social labor, because thus only can the work be done under the constant inspection of the master, unless we suppose a master in every cell, which is impossible. Allowing one for every twenty-five convicts, which would be twelve for three hundred, he could not pass twenty minutes a day in each cell; whereas, if they were employed in one workshop,

he would almost instantly perceive if any one were doing wrong or were embarrassed, and would step to his aid at once. Nor, would the convict's observation of his fellow-laborers be less useful. A single glance now and then would show him how they handled their tools, and be often more instructive than a formal lesson. There are several kinds of work, also, such as stone-hammering, and some others, which have been the most in demand, and the most profitable here, which cannot well be carried on in solitary cells, and skill in which can be acquired only under the system of social labor. From these the prisoner returning to society from the solitary cell is precluded, and thus exposed to greater temptation; for it has always been found here, that when labor is scarce and wages high, the number of convictions has sensibly diminished, while they have much increased under opposite circumstances.

It may aid us in determining the capacity of the convict to support himself by the fruits of his labor after his discharge, to observe what are in fact the results of that labor in the prison, though undoubtedly the earnings of the same number of persons out of prison would for many reasons be considerably greater. It is not to be assumed, indeed, that the rate of wages is the same in different places; but a comparison of the two systems in this respect may disclose a difference in the result altogether too great to be ascribed to local or accidental causes.

The table marked (A.) shows the gross earnings in

the State Prison at Charlestown, by the labor of the convicts, during fifteen years past to have amounted to \$515,422 46, which gives an average of 34,361 50 per annum ; and this, divided by 283, the average number of convicts during those years, makes it appear that the annual earnings of each have amounted to \$121 42. It should be stated, that the team hands, together with the cooks and others employed in domestic affairs, constitute about one-seventh part of the whole number of convicts, and that as no money is actually received for their services, the value of them is not included in the above amount ; so that one sixth part should be added to the last-named sum to show the actual earnings of each individual profitably employed.

(A.)

Gross Earnings of Prisoners in Charlestown and Philadelphia.

	Charlestown.	Philadelphia.
1832	27,574 98	
1833	31,245 18	
1834	35,392 84	
1835	37,807 48	12,530 31
1836	44,838 66	
1837	34,636 81	
1838	37,659 08	
1839	41,548 73	
1840	39,520 27	
1841	34,659 45	
1842	34,018 97	
1843	24,454 57	
1844	31,250 92	17,468 64
1845	30,245 95	12,658 19
1846	30,568 57	15,881 20
	515,422 46	58,538 34

Average No. of Prisoners, $283\frac{1}{3}$ Charlestown ; $317\frac{3}{4}$ Philadelphia.

In the official reports of the Philadelphia prison, the

gross earnings are stated for only four years ; but there seems no reason for supposing, that in these years the gain was less than in those, for which it is not stated. On the contrary we may naturally presume, that it was stated in these years because it was unusually large. However this may be, in the course of those four years the earnings appear to have been \$58,538 34, or \$14,634 53 per annum, which divided by 318, the average number of convicts during those years, gives \$46 02 as the earnings of each individual. It is true, that about one-twentieth part of the prisoners at Philadelphia are women, whose earnings should be less than those of men. But on the other hand there are no persons in Philadelphia, or certainly not nearly so many as in Charlestown, corresponding to the team hands and others unproductively employed in the latter place ; nor can there well be so in a prison where every convict is kept entirely separate from all others. It is supposed that these considerations may balance each other. Those, however, who think otherwise, and choose to regard the labor of the women as worth nothing, should add one-nineteenth part to the sum last named to get the gross annual earnings of the convicts. No notice is here taken of sickness, as it is assumed, for the purpose of this comparison, that it is equal in both prisons ; though in comparing the earnings of the convict with those of persons not in prison, this circumstance, and all the others above-mentioned, should be taken into consideration. But these may here be disregarded as immaterial to this discussion ; for it is not

designed now or hereafter to draw any conclusions from minute or inconsiderable differences between the tabular statements ; but only from such broad and striking diversities, that no slight omission or even mistake, if any should be found in the reports or in the tables, can at all affect the argument. Taking the figures, as above stated, and without the corrections suggested, which are immaterial to our present purpose, the prisoner in Charlestown earns more than ten dollars a month, and the prisoner in Philadelphia less than four. Considering that labor out of the prison must be much more profitable than in it, we may conclude, that the labor of the former, if continued after his discharge, would afford him in this country a decent subsistence ; while that of the latter, notwithstanding every allowance that can reasonably be made, would not.

These remarks on the proceeds of the convicts' labor, relate to his own interest only, and nothing has been said of the expense to the State of these different systems. Nothing need be said of it in this country, where the enormous difference of expense between the two systems is no longer disputable, though it is a topic which will always claim, and ought to claim attention, since the sums expended for the support of guilty idleness in prison, are a tax on honest industry. It is a tax which should be cheerfully borne, if ultimately beneficial to the community ; but we ought to be well assured that it will be so before imposing it.*

* The expenses of the prisons at Philadelphia and Charlestown, are sufficiently shown in Appendix, No. I., for which I am not responsible ; though I believe, upon high authority, that it is correct.

It is another most important question, what is the comparative effect of the two systems on the health of the body and of the mind. This is not entirely unconnected with the last ; for in vain do we inspire the convict with good resolutions, accustom him to diligent labor, and train him up to acquire skill in some profitable occupation, if we send him forth into the world enfeebled in mind or in body, without the firmness to maintain his resolutions, or the strength to prosecute his toil. But it involves far higher considerations, the claims of humanity and of justice. There are no doubt a few atrocious crimes, which in the present state of society, may rightfully be punished by the infliction of death ; but who can imagine an atrocity, that the hand of man can execute, or the heart of man conceive, which may justly be punished by the infliction of insanity ? There is no need of arguing this point. The only doubt will be as to the facts.

But how shall this doubt be resolved ? The only mode hitherto known for ascertaining the proportion of deaths or insane cases to the whole number of persons anywhere, is to compare the actual returns for a series of years. The opinions of the most learned and experienced are of no avail here ; for those opinions must be founded on the same facts, and the facts themselves are better evidence than the opinions. Nor can the officers of a prison find much difficulty in ascertaining these facts ; though there is some difference between the two cases. Of the actual number of deaths within the year, they may be absolutely certain, since it can-

not long be doubtful in any case, whether a prisoner is living or dead, while there are some instances of supposed insanity, on the reality of which, opinions may differ, so that comparisons cannot be carried out with the same minute exactness in relation to these, as to the deaths. But these instances can hardly bear so large a proportion to all the insane, in any well-regulated prison, as to affect materially the general conclusions now intended to be drawn. At any rate, we may be quite sure that the officers of our penitentiaries do not state the number of insane cases to be *greater* than it is in fact. The determination, what is the cause of insanity in any particular case, and what the time of its origin, especially if this be avowedly remote, is still more dependent on opinion; so that when a prisoner has remained under constant inspection for months or years, and is subsequently discovered to be insane, the allegation that he was so on his admission, cannot be readily received, unless special and satisfactory grounds for the assertion be expressly stated. For it is hard to believe that insanity could exist so long, without the slightest suspicion, or that it could have escaped detection, under the rigid scrutiny, to which the slightest suspicion must have led in any well-ordered prison. Even, however, if such cases do exist, they cannot be numerous enough to affect our conclusions.

The remarks frequently made in case of death or insanity, that the prisoner, on his admission, had a tendency to disease, was of imperfect health, looked delicate, and the like, are not worthy of regard. These

vague phrases convey such different ideas to different minds, that they are of no other use than to refresh the memory of him who made them. The difference between the proportions of healthy and unhealthy convicts, at the time of their commitment to prison in different places, between which places there is no observable difference in the health of the inhabitants at large, though it may be occasionally striking from accidental causes, yet cannot, through a series of years, be important enough to have any influence on this discussion.

The confident and sweeping statements so often made on the subject, such as that this or that system is shown by experience not to be injurious to health, or to be better than all others, &c., though made in the form of assertions of fact, are nothing but mere expressions of opinion; and when not accompanied by the evidence and arguments, on which they rest, are of little value in discussions of this nature.

It is true, that in a court of justice, the opinion of one skilled in any art or science is good evidence on any point, for the correct decision of which, an acquaintance with that art or science is requisite; and it may often be the best evidence which the nature of the case admits; for, even if it were possible, which it is not, for such a witness to state all the experiments, observations and facts which lead him to adopt that opinion, yet he could not communicate the long professional experience which alone enables him to draw the just deduction from them. But when he addresses men, versed in the same science with himself, the mere

statement of his opinion, without the grounds of it, will have very little weight with them, if it differ in the slightest degree from their own ; for they, too, have some professional knowledge, against which his is to be weighed, and some experience to be compared and combined with his.

Not only in discussions among equals, but in teaching, the really scientific man in these days, since science has ceased to be a mystery, states not only his opinions, but the grounds of them ; and indeed the sounder they are, the more ready and the more able he is to give a reason for them. If Professor Agassiz had stated in his lectures the various rates at which he believed that the different portions of a glacier moved down its valley, without stating the grounds of his belief, high as would be the mere authority of such a statement, it would not have been half so satisfactory as when accompanied, as it was, by a precise exposition of the experiments, observations and facts on which it rested. Thus accompanied, it brought home to every hearer, to the most ignorant as to the most enlightened, a double conviction of its correctness.* Even where specific instances or examples are not

* There is reason to hope, that this accomplished man, whose lectures have been listened to here for a year past by audiences consisting not of a few hundred, the largest number usually seen at scientific lectures in Europe, but of thousands, with the highest degree of instruction and delight, and whose personal intercourse has been enjoyed by so many with not less of either, will before long become a resident in this country, and inspire our young men of science, and our oldest institutions, with a portion of his own enthusiasm.

necessary for proof, they are frequently so for illustration ; and the lessons they give are precise, impressive, and unsuspected.

So generally is this now understood that the enunciation in matters of science, of positive opinions without proof, of assertions that they stand to reason without showing what reason ; or that they are supported by experience, without specifying instances of that experience, excite distrust rather than assent. And yet in this new science the zeal of controversy seems to have caused such allegations to appear again as often and as boldly as in those darker times, when the results of science and art were held up as miracles for the admiration of the world, while their processes were revealed to none but the initiated.

This nowhere occurs more frequently than with reference to questions touching the health and sanity of convicts, questions coming within the domain of medicine, in which science itself this dogmatic spirit — perhaps on account of the obscurity of much of the evidence on which it must rely — lingered longer and later than in any other of the ancient sciences. A striking and instructive instance of this is afforded by the testimony of several eminent medical men on the trial of Capt. Donellan for the murder of his brother-in-law, Sir Theodosius Boughton, for which he was executed in the last century, at Warwick, in England. All but one of them confidently testified, that from the symptoms stated by other witnesses to have occurred during the last illness of the deceased, his death was undoubtedly caused

by poison. That one was John Hunter, who maintained that those symptoms afforded no ground whatever for any medical opinion on the subject. They were such as might be produced by poison, and therefore, if it were proved that poison had been taken, knowing this to be a sufficient cause for them, he should ascribe them to it. But as they might equally arise from other causes, the mere fact of their existence did not prove that poison had been administered. The Judge was not satisfied with this answer, and insisted upon an opinion from the witness either one way or the other, but in vain. The jury and the doctors wondered at Hunter's confession of ignorance, then a very novel thing in either of the three learned professions. But the members of his profession at the present day think him entirely in the right, and agree with him, that no medical opinion whatsoever could be founded on such symptoms alone. The truth is, that having no means of knowledge, they were all equally ignorant on the subject; but that Hunter was aware of his ignorance, while they were ignorant of theirs.

A more amusing and more recent example occurred in our own country about thirty years ago, when it was first proposed to send a cargo of ice from Boston to New Orleans. An idea was then started in the latter city, that ice in that warm climate was unhealthy, and this idea became so prevalent, that the City Government thought it to be its duty to apply to the Medical Faculty for their opinion, and having learned from them, after grave, solemn and formal deliberation, that

the use of ice in hot weather was extremely pernicious, and had been proved to be so by all experience, passed a sanitary law to prevent its introduction. This law, it is said, still exists unrepealed but unregarded, and nowhere is the use of ice now recommended more freely, more frequently, or in more various cases by medical men, than in the city of New Orleans itself. It was no doubt the perception of this tendency in his profession which led Baron Louis to that precise notation of specific instances, that accumulation of particular cases, which seems calculated to make the medical approach the exact sciences; and to cause such a sifting of general assertions and assumed principles in this science, as may greatly diminish their number and increase their value.

These considerations must not be lost sight of in weighing general assertions and opinions with regard to the health of convicts under different systems. As to those special assertions of fact, which involve opinion to a certain degree, such as the cause or duration of disease in an individual case, but for which we can have no other direct evidence than the statement of one who has seen the patient; those who have not done so, must take that statement with no other qualification than may be warranted by other known facts, and by their opinion of the character and intelligence of the observer.

There is yet one more consideration peculiarly important, at the present time, in investigating the subject of health, though not confined to this, but extending to all points of prison discipline, which requires

a few remarks. It relates to the position of the observer himself; to the question how far he is pledged, or responsible for the success of the system of which he speaks. When a government introduces a new plan, or a new system into its prisons, *avowedly* for the purpose of experiment alone, without at all pledging itself for the event, and directs its officers to carry this plan into effect for this purpose only, we may reasonably expect that the experiment will be fairly tried, and its result known and acknowledged, without reluctance or hesitation, within a reasonable time. But when a State fully and finally adopts a new system without reserve, as its own, and provides by law for its general establishment, thus proclaiming its unqualified approbation of it; officers will naturally and properly be appointed to administer it, who entertain and express the same sentiments. Such men, and the State itself, will be very slow to see, and very slow to believe anything which evinces the failure of their system. Without imputing any wrong motive to them, it cannot be, that they should look without the utmost reluctance upon any event which would be understood to imply, that the system, for the success of which they have thus publicly made themselves responsible, was either unwisely chosen or ill-administered. Accordingly in the States of New York and Maine, where for the purpose of experiment, a portion of the convicts were confined to solitary cells without labor, the experiment was fully tried in both, within the short period of eighteen months, and its failure at once announced; and there

health is injurious to that of the school.

was an end of it. While in the State of Pennsylvania, which by law of March 3d, 1818, adopted the same system without reserve, and provided that a prison should be at once built, exclusively fitted for this system at Pittsburg, and another on the same plan afterwards at Philadelphia — so that for more than twelve years this was generally spoken of as the Pennsylvania system, — did not readily renounce it, though it was put in operation at Pittsburg, as far as it ever was in Pennsylvania, in the year 1826, without success, but still clung to it in 1828 ; and it was not until the following year that she relinquished it. This is not mentioned to the credit or discredit of either of these States ; it arose from the difference of their position, not of their character ; and had their situation in this respect been reversed, it is not improbable that their conduct would have been so too.

Still longer and more obstinate was the adherence of the same State, and many others to the system of contamination put in force by that State in 1790, and subsequently by them, and continued for years after its evils are now admitted to have been apparent.

But, they had pledged themselves too deeply for the excellence of this system, and held it up with too much exultation to the admiration of the world, not to be more than a little blind to its defects. It need hardly be remarked, that in this, as in other similar cases, the testimony which coincides with the interests, views and prejudices of the witness, has much less weight than that, which is adverse to them.

It is asking too much of human nature to require, that any men should be quick to discern, and forward to proclaim, the defects of a system, devised or administered by themselves. It was therefore perhaps unfortunate, for England, that during so many years its national penitentiaries were in fact inspected by those who had planned and established them, and who had so repeatedly and earnestly maintained the perfection of their system. The commission for governing the prison at Pentonville, presents, indeed, a long array of distinguished names ; but these eminent men cannot have had any personal knowledge for the most part of the details of this institution, and must have relied entirely on the representations of the few active members of the board. Without at all questioning the accuracy of any precise and definite fact stated by them, we cannot be expected to rely implicitly on their opinions of the merits of their own system, or of their own administration of it.

The absurdity of the attempt often made to decide what is in fact the influence of any system of prison discipline upon health and sanity by abstract reasoning, and by deducing what is from what ought to be, upon general principles, is exemplified in so striking and instructive a manner in the Philadelphia reports, that I cannot forbear citing from them the following passages ; for though the first refers more particularly to bodily and the second to mental disease, it would be idle to suppose that the writers would give us to understand that what is so highly conducive to bodily health is injurious to that of the mind.

In the sixteenth report for the year 1844, the physician says :

“ Every day’s experience has increased my confidence in the working of the system. To say nothing of the comparatively small number, in so depraved a population, of genuine and severe cases of disease, not contracted out of prison, and the few instances of fatal disorder developed in the cells, we cannot help being constantly struck with the marked improvement among many of the convicts. We repeatedly observe the beneficial effects of the change from a career of dissipation, privation, and exposure, to one of regular and industrious occupation with plenty of good food, and comfortable quarters. In this manner we are forcibly impressed with the justice of the remark, made years ago by Dr. Bache, in one of his reports : ‘ The circumstance, indeed, of being withdrawn from the influence of the severer atmospheric vicissitudes, such as wet and cold, which are prolific sources of disease with a large portion of the community, would, of itself, more than compensate for the operation of any unfavorable causes to health, experienced in this prison. But when it is considered, that many of the individuals sent to our prisons, have been in previous habits of drunkenness and debauchery, the comparative healthfulness of the confinement and mode of discipline must be apparent.’ ” *Sixteenth Report*, p. 41.

In the report of his successor for the very next year, we find the following :

“ It certainly cannot be denied that a larger ratio of insanity has appeared within the year than the very imperfect statistics of this subject give for the general population ; but the question as to which produces a greater or less amount of that disease, I have never considered as resting between equal numbers of the community and the inmates of a penal institution, but as entirely between the rival systems of Auburn and Pennsylvania. For, to expect from an assembly of prisoners, *no matter what the form of discipline to which they are subjected*, the same proportional amount of mental health as is enjoyed in society, is in a degree to put on a

par, as predisposing to insanity, drunkenness and sobriety, anxiety and content, remorse, and the consciousness of a well-spent life, — in a word, vice and virtue.” *Seventeenth Report*, p. 56.

“Who shall decide when Doctors disagree?” Experience, and experience alone. These arguments are very plausible, but they afford no proof, no evidence, no indication of the fact; though it is gratifying to know, that however the fact may turn out, we are provided beforehand with a very ingenious and perhaps satisfactory explanation of it.

Let us pursue the beaten path, then, and compare the official returns, remarking, however,

1. That such comparisons, when made for single years, are of little value, and if those single years are selected here and there from the returns, of none at all. A regular series, and that as recent as possible, should always be taken for comparison, or if any year be omitted on good grounds, the numbers omitted should be stated, with the reasons for the omission.

2. Broad conclusions should not be drawn from slight differences; and, on the other hand, where the differences are great and uniform, we are not to reject the conclusions founded on them, on the ground of any mere conjecture, that there may be some error or unknown element, that might affect the result. As in astronomy, no observation is known to be perfectly exact; but there are conclusions founded on observation, which are deemed to be beyond the limits of probable error, and relied on as mathematically certain.

3. The calculations, founded on such tables, should

always be made in the simplest possible form. The simplicity of a process is its highest merit with mathematicians; and with those who are not so, it is the greatest security against error. The Second Annual Report of that able and excellent Society, the Prison Association of New York, made for the year 1845, affords a striking example of the enormous mistakes which may result from founding such calculations on a complex and erroneous basis. As the publications of this Society have great and just influence, and may lead many not only to adopt those mistakes, but to make other calculations on the same basis, it may be useful to explain its unsoundness.

On the 94th page, is a table purporting to show the average proportion of deaths to prisoners in prisons conducted on the silent and separate systems. Its ultimate conclusions are averages of ratios and not of numbers. The error of this and its consequences may be explained by a single instance. It having been stated, that in the prison at Philadelphia, the proportion of deaths to prisoners was as 1 to 28.44, in that of Pittsburg, as 1 to 48.76, and in that of New Jersey, as 1 to 136.75; these three numbers are added together, and one-third part taken, as expressing the average of the whole, viz.: 1 to 71.31. This must mean, or it means nothing to the purpose, that taking all three prisons together, the whole number of deaths, was to the whole number of prisoners, as 1 to 71.31. Certainly every one must so understand it.

Now, this is far from true, and there are only two

possible cases, in which the result of such a process can be correct. 1. When the several proportions are the same. 2. When the several proportions thus stated, bear the same ratio to each other as the numbers of the convicts in the different prisons. That either of these things should occur throughout such a table as that from which this extract is made, though possible mathematically, must be considered physically impossible, since there are millions upon millions of chances against its occurrence to one millionth part of a chance in favor of it.

The error of such a process will be better proved, on this occasion, by an example than a formula. Let A. be a prison containing 1000 convicts, of whom 100 die. Let B. be one containing 100 prisoners, of whom 1 dies. The proportion of A. is 1 to 10, that of B. 1 to 100. The two added together make 110, half of which is 55, so that the average proportion of the two together, according to this mode of calculation, is 1 to 55. But 101 have died, and if one has died out of every 55, the whole number must have been 55 times 101, or 5555. In fact, however, it was only 1100, of which number, 101 have died. This is not as 1 to 55, but as 1 to 10.89, a difference of more than fivefold.

Another example. Take A. as before, and B. with 100 prisoners, of whom no one dies. The proportion of A. is as 1 to 10; that of B. as 1 to infinity. Add these together and take half, you still have the proportion of 1 to infinity, that is, none; so, that though

100 convicts have died in one of these prisons, yet taking them both together, there is nobody dead at all.

On the preceding page of the same report is a table including fourteen years, showing the number of convicts and the number of deaths in the same prisons, for the same period as the former, excepting in that of Pittsburg for four years after 1825, where the numbers were then too small to vary the result materially, and in that at Charlestown, for the same time, which was not then under the silent system. From this it appears, that the whole number of convicts, in the three prisons, for which the above calculation is made, was 6347; and that of deaths 197. So that the true average proportion for that time, is as 1 to 32.22, instead of 1 to 71.31, a difference, which needs no comment. There is a table of pardons on the 109th page of the same report, constructed on the same false principle.

The annexed table marked (B.) shows the number of deaths in the Philadelphia penitentiary for the last ten years, and table (C.) those in Charlestown during the same period, both institutions having then attained their mature growth, and full numbers.*

* Under the term blacks all people of color are included.

(B.)

Deaths in the Eastern Penitentiary at Philadelphia, for ten years past, made up to December 31, of each year.

Years.	Whole number of prisoners.	Whites.	Deaths of Whites.	Blacks.	Deaths of Blacks.	Total Deaths.
1837	387	233	7	154	10	17
1838	402	241	7	161	20	27
1839	418	245	2	173	9	11
1840	406	236	9	170	13	22
1841	347	215	4	132	13	17
1842	342	212	3	130	6	9
1843	334	212	5	122	6	11
1844	360	240	6	120	7	13
1845	319	224	3	95	12	15
1846	326	232	4	94	9	13
	3641	2290	50	1351	105	155

(C.)

Deaths in the Penitentiary at Charlestown Massachusetts, for ten years past, made up to September 30th of each year.

Years.	Whole number of prisoners.	Whites.	Blacks and Indians.	Total Deaths.
1837	288	264	24	5
1838	303	277	26	7
1839	316	289	27	5
1840	318	285	33	2
1841	333	297	36	8
1842	304	272	32	2
1843	271	234	37	2
1844	276	247	29	2
1845	287	256	31	1
1846	253	230	23	1
	2949	2651	298	35

It will be observed that in the former table the number of deaths among the whites is distinguished from that among the blacks, and that the latter is by far the

greatest. A similar difference is said to exist also in the city of Philadelphia, but not to so great an extent. It is stated that for ten years from 1820, the annual average of white deaths in that city was 2.42 per cent., and that of blacks 4.75,* while in the penitentiary, as will be perceived, for the last ten years, the average of whites is 2.18 per cent., and the average of blacks 7.77 per cent. No doubt there is a difference in this respect between the two races, but why so great a discrepancy should exist between the city and the prison has not yet been explained. May not the exercise of the pardoning power have some influence in this respect? Supposing that blacks were never pardoned, but remained in prison during the whole time for which they were sentenced, and that white men were often pardoned, so that while the numbers were kept good by frequent admissions, the individuals were perpetually changing, and thus each passed a short time comparatively in confinement. If a prison life tends to produce disease and death, would not this fact occasion a difference between the two races in this respect while in prison? And when it is considered, that the hope of pardon must greatly strengthen and sustain a prisoner, especially one in solitary confinement, might not this difference be considerable? Now how is the fact? Unfortunately the official reports do not enable us to carry back this investigation beyond the last five years, during which period the pardons have been as follows:

* 2 New York Reports, 91.

Years.	Whites.	Blacks.
1842	21	2
1843	15	0
1844	39	7
1845	30	2
1846	26	0
	131	11

During this time the whites have been precisely twice as many as the blacks, the average of the one being $22\frac{1}{2}$, and that of the other just 11. The number of whites then has been to that of the blacks as two to one, and the pardons of the former to those of the latter almost exactly as twelve to one.

It is observed, that there is somewhat less mortality among the whites in Boston, than among the blacks, but as there is no distinction made between the deaths of the one and the other in the Reports of this prison, the difference there, cannot be ascertained. They generally constitute from 10 to 11 per cent. of the convicts, though they form but 1.18 per cent. of the population of the State, and only 1.61 per cent. of that of Boston.*

It has been not uncommon here and elsewhere to insist, that no comparison whatever should be instituted between the Eastern Penitentiary at Philadelphia, and any other prison, on the ground, that the greater number of blacks there rendered any such comparison impossible; and it has often been attempted, under the shelter of this general allegation, to escape from the terrors of the truth. But they are not to be

* Shattuck's Census of Boston, in 1845, p. 43.

escaped from thus. We will compare the mingled population of whites and blacks together in the prison at Charlestown, with the whites alone, in that of Philadelphia. The difference is apparent at a glance. In the former it is 1.19 per cent., in the latter 2.18 per cent. Or, to make it more intelligible to readers in general, who do not readily comprehend these per centages and fractions of a man's life, where 119 prisoners die in Charlestown prison, no less than 218 white prisoners die in that of Philadelphia; an immense difference. But may it not be occasioned by the diversity of soil or climate or temperature? Perhaps so; let us inquire. The influence of these causes and of all other causes whatsoever not belonging to the prisons themselves, must operate as well without as within them, and affect the whole community no less than the inmates of the prison. What then is the fact? The deaths among the white inhabitants of Philadelphia, are, as has been stated, 2.42 per cent. In Boston, the deaths, since 1830, are on an average, 2.09 per cent., a difference indeed, but by no means sufficient to explain the difference in the prisons; and leaving still a vast residuum to be accounted for. It has been urged, however, that there is a difference in the length of the sentences. This is true. But the difference is in favor of Philadelphia, as the sentences are shorter there than here, and the influence of this cause, therefore, should make the mortality in their prison less than that in ours, instead of more.

Again, it has been alleged, that the health of the

prisoners in Philadelphia, is at least as good as that of the community around, the mortality being less within than without the prison, since the mortality in the city is 2.42 per cent., while in the prison it is only 2.18 per cent. But this is not so. The mortality is not less within than without the prison, because such is the result of the tables. The greatest proportion of deaths, that which raises the average so high in the general bills of mortality, takes place in infancy and childhood. But the inmates of both these prisons are more than three-fourths of them under forty years of age, in the full maturity and vigor of life. There are none in childhood, and scarcely any in old age. Let the mortality among them be compared with that of those of the same age in the community, and mark the result. For want of direct tables for Philadelphia, let the deaths in Boston be taken on the average since 1830, between the ages of 15 and 60 years, and allowing for the difference above-stated between the whole number of deaths in Boston and Philadelphia, the result will be that in Philadelphia, the deaths between those ages are 1.47 per cent. That is, where 147 persons between 15 and 60 die in the city, 218 die in the prison. The deaths in Boston, between those ages are 1.28 per cent., so that it will be seen, that where 128 die in the city, only 119 die in the prison, and that thus the latter is the more healthy of the two.*

* In the Penitentiary at Pittsburg, in Pennsylvania, which is also

But, if such is the influence of solitary confinement on the bodily health, what must be its operation on the mind, upon which it acts more directly and far more powerfully? It is such as might be feared. There is nothing, for which the system of solitary labor has been more lauded, than for the overpowering effect of the degree of solitude, which it necessarily implies, as administered in this country, upon the mind; and facts are often stated, which prove that the nerves of the convict are much shaken, and his mind enfeebled; and that he is in that state of debility, in which resolutions of amendment are very likely to be formed, but very little likely to be executed. Messieurs De Beaumont and De Tocqueville, observe, on their visit to one of the prisoners, No. 61, in the Penitentiary at Philadelphia, that *he could not speak long without being agitated, and shedding tears; and that they had made the same remark of all whom they had previously seen.*

The allegation frequently made, that insanity is more readily detected when it exists under the system of solitary, than under that of social labor, rests apparently on no good grounds. On the contrary, it

under the system of solitary labor, the number of prisoners and of deaths for the last five years, is stated to have been as follows :

Years.	No. of Prisoners.	Deaths.
1842	163	5
1843	148	6
1844	130	6
1845	130	4
1846	126	6
	697	27

would seem, that it must be more easy to discover the state of mind of a person, who is in the presence of the officers every day, and all day long, and occupied as in Charlestown, than that of one, who, excepting the momentary calls of the turnkey, never is seen by any one person oftener than once in a fortnight, and even including those calls, is not in the presence of human beings more than fifteen minutes in a day.

Undoubtedly there may be cases of mental derangement in either of these prisons, as there are out of them, which shall pass for some time undetected. In the Philadelphia report, for 1843, of four new cases of persons under treatment for insanity in that year, three are alleged to have been insane when admitted, yet of these, one is stated to have been first placed on the list of insane patients five months, one ten months, and one a year and nine months after their respective commitments to the prison.

Only one case which, if unexplained, may at first seem analogous to these, appears in the reports from the prison at Charlestown. It is that of an individual admitted in September, 1836, but not kept confined as insane until the following August. The fact is, however, that he was known to be insane when admitted and stated to be so by the sheriff, who brought him to the prison, though he was not so unruly as to make constant confinement necessary till nearly a year afterwards.

It is proper to say, that the part of the Philadelphia Physician's Report, for 1842, which should relate to in-

sanity, appears to have been suppressed, without explanation ;* and that the reports of the two following years also, on this head, are somewhat confused and difficult to be understood ; but in both these last, as in other cases where the meaning of any passage is uncertain, that construction is here adopted, which will make the number of cases of insanity, originating in the Philadelphia prison, appear the smallest.

In the report of the physician of that prison for the year 1845, he presents, "the cases of insanity which have been developed" during the year, and in that for the last year, 1846, he says, "The cases of insanity, that are supposed to have originated in the institution

* This has been doubted in Paris. But it has not been denied in Philadelphia, a fact, which alone, under the circumstances, warrants the statement in the text. Another proof of it is, that there are asterisks in this Report of 1842, indicating the suppression of something ; and that every other usual topic but that of insanity is there treated of, while not a word is said on this, which in preceding and subsequent Reports is properly dwelt on, as a matter of the utmost importance. Nor, is it at all credible, that while there are so many cases in every other year, there should be none at all in this. Besides, in the Report for 1843, it is stated, "that of old and new, we have had to deal, since 1842, with seven genuine cases, properly belonging, for aught known to the contrary, to the institution ; only one of them, let it be remembered, having commenced in 1843." Did not these or some of them, and how many others, commence in 1842 ? Happily we may hope, that this concealment will soon terminate, for the Physician, says in his last Report, that though prevented from fulfilling at that time his previous promise to give a tabular statement of all the cases of insanity, which had occurred in the institution, he will assuredly do so in his next Report. This is as it should be. And moreover, the suppressed passages in the Physician's and the Moral Instructor's Reports for 1842, whether they relate to insanity or not, ought to be published.

during the year, are presented in the following table." This seems to imply, that there were other cases of persons insane, supposed by the physician not to have become so in the institution during the year, but to have been in that condition when admitted, which are not mentioned. If such be the fact, it would have been better to state the number of such cases, as is done in the earlier reports, especially considering what is said in some of the other official reports, from this prison. In his report for 1840, the Warden, while speaking of those committed for the higher classes of crimes since the establishment of the penitentiary, makes these remarks :

"I have alluded to three deranged persons having been received for the crime of murder, in the second degree. That these men were so deranged, at the time the murder was perpetrated, there is no doubt; and these are not the only cases of deranged persons having been sent to the Eastern Penitentiary. Many have been clearly and decidedly proven to be so at the time of their conviction. They were, however, ill disposed and mischievous; and the judges ask what can be done with them? Until the legislature of *Pennsylvania* shall provide a suitable asylum for the indigent deranged, a measure which every motive of policy, of economy, and humanity imperiously demands, we must expect that such will be sent to the penitentiary.

"In a future age it will scarcely be believed, that in the nineteenth century, in a Christian land, in a state containing throughout its extent, innumerable monuments of piety, of intelligence and benevolence, that those whom Providence, in its mysterious dispensations, had visited with the most grievous, the most appalling calamity, the deprivation of reason, and consequently of responsibility — that indigent lunatics should be deprived of all sympathy, of all justice, by the cruelty or negligence of their fel-

low-men — should be consigned to a prison, appropriated only to felons of the vilest degree, where no friend or relative could visit them, or alleviate their distress, and where almost every surrounding circumstance is hostile to their repose, their comfort, or their restoration to reason." *Twelfth Report*, pp. 12 and 13.

In the report of the physician, for 1844, he says :

"The fact of twelve individuals, in the space of a single year, having been branded with the opprobrious epithets of prisoner and felon, and punished for crimes of which they are legally and morally innocent, cannot fail to strike the philanthropist with dismay. Yet, so long as Pennsylvania remains without a State asylum for insane poor, a number of this unfortunate class of persons must necessarily be committed to her penitentiaries, where, I need not state, the provisions are quite inadequate for their proper accommodation, but where, in a large majority of cases, all hopes of their recovery are at an end ; for however well qualified prison discipline may be for eradicating moral depravity, it certainly is not the sphere in which we can hope to successfully ' minister to a mind diseased.' " *Sixteenth Report*, p. 52.

"What shall the judges do ?" Direct an acquittal. What else can they do consistent with law and with their duty ? They have no more right to send such persons to prison as convicts, than they have to send there the insane, who have done no act, which in a sane man would be criminal, or any other innocent man in the community. If such outrages on public justice are wilfully committed in Pennsylvania, they ought to be set forth in their full extent to the world, and especially to the people of that State ; and every single instance brought home to their knowledge, in order that the State may punish and correct them, and may have every possible inducement to make

some provision for such unfortunate beings. Even if they must be imprisoned, let it be done by law, and not without law. In the State of Massachusetts, when any one is acquitted as insane, the jury must so state in their verdict, and on a verdict of "not guilty by reason of insanity," the accused must be discharged, unless his going at large be deemed manifestly dangerous to the community, in which case he may be sent by the court to the State Hospital for Lunatics at Worcester. No doubt, insane persons are sometimes convicted and sentenced here, but never with the knowledge of the court. It cannot well be otherwise when insanity has been set up at the trial, as a defence, a very common one of late, and though true in fact, has not been proved to the satisfaction of the jury.

The following table marked (D.) exhibits the number of cases of insanity in the Philadelphia prison for the last ten years, previous to which time they are not reported with any kind of regularity; though it appears, that in 1832, of twenty persons discharged, two were insane and one idiotic; and that of four, who died there in the same year, two were insane. This table shows not the whole number of insane persons existing in the prison at one time, but *the number of new cases in each year*, distinguishing the color of the patient, where it is stated in the reports, and the number of persons appearing to be insane at the time of their admission.

(D.)

New Cases of Insanity in the Eastern Penitentiary of Pennsylvania, in each year, since 1836.

Years.	Whole no. of cases.	Whites.	Blacks.	Not distin- guished.	Appearing insane when admitted.		
					Whites.	Blacks.	Not distin- guished.
1837	14			14			
1838	18	8	10				
1839	26	13	13		2		
1840	21			21			
1841	11			11			
1842*							
1843	4	3	1		2	1	
1844	15	10	2	3	8	1	3
1845	8	6	2				
1846	9	3	6				
	126	43	34	49	12	2	3
Deduct Insane } when admitted. }	17	12	2	3			
Cases arising in } the prison. }	109	31	32	46			

Now since it appears, that where the color is distinguished, the number of whites and the number of blacks becoming insane in the institution, are almost exactly equal, it is the natural and necessary presumption, that the same proportion exists, where the color is not distinguished; and of course, half of this undistinguished number 46 should be added to each. To the 31 known to be white, let us add then the 23 necessarily believed to be so, and we have 54 cases of insanity in an average white population, as appears from table (B.) of 229.

* No statement.

This for nine years, is six each year, or 26.20 new cases of insanity, annually, for every thousand people. Even if we suppose that there was actually no case of insanity in 1842, and base our calculation on ten years it would only reduce the average number of new cases among whites from 26.20 to 23.58 in a thousand, which does not at all affect the argument, for there ought not to be more than ONE in a thousand. The former number is no doubt correct.

Table (E.) shows the cases during the same time in the prison at Charlestown, in Massachusetts. The report of the physician for the year 1838, contains the following statement: "During the year, one man has, in the estimation of the physician, become insane. It is worthy to remark, that this is only the second case of insanity, which has occurred in this penitentiary during the last ten years." * p. 38.

* The third report of the Prison Association of New York, contains what purports to be a synopsis of all the reports of the different State Prisons of the United States, of which copies had been received by them, and from which they believe that they have extracted every important fact which can be necessary for the elucidation of the subject.

It is unfortunate that their collection was not more complete; the reports from New Jersey, being confined to the year 1846, and those of the Eastern Penitentiary of Pennsylvania, to that and the preceding year. Many if not most others which should extend through several years, are also imperfect. But this is our common misfortune; and as the fact appears, at a glance, on the face of the documents, it can mislead no one. Very little observation, however, will disclose instances of omission and inaccuracy, of which the synopsis itself affords no indication or correction, so that we cannot know whether to rely on its accuracy in any particular case or not, and thus its chief value as a substitute for the originals is lost. The passage above cited from the report of the physician of the State

Such cases occur there so rarely that the official reports sometimes omit to state their non-occurrence, and the number of insane appears only from the statement of the manner in which the different inmates of the prison are occupied. This statement of course exhibits the whole number in the prison at the time. In order therefore to ascertain the precise number of new cases occurring in each year, it has been neces-

prison at Charlestown, is condensed into the few following words: "During the year, one man has, in the estimation of the physician, become insane." Not the slightest intimation is contained in this synopsis, of the fact asserted by the physician in the same paragraph, that only one case of insanity had previously arisen in the prison for ten years. Now the maker of the synopsis might have disbelieved this assertion, and if so, might have noted his disbelief of it, though it is not disbelieved on the spot; but professing to present a document containing every important statement of fact, he ought not to have omitted this, which is certainly far from unimportant.

In the synopsis of the physician's report for the Pittsburg prison, in the year 1845, it is said, "In the report of the prison for the year 1843, Dr. Smith states, that from January, 1839, to January, 1844, there had been 525 convicts in the prison, and from this number but *one* case of insanity is recorded." If this last assertion is here meant to be ascribed to Dr. Smith, we find in the synopsis of his report for that year, contained in this work, no such statement. And whether it be intended to be ascribed to him or not, it would appear from the same synopsis to be incorrect; inasmuch as the physician's report there for the year 1840, in enumerating the diseases of prisoners, contracted in prison, during that single year, specifies no less than three of dementia. Can this be so in the originals? When the original reports from the same prison directly contradict each other, it should be noted, otherwise we cannot be sure, that the mistake is not confined to the synopsis. It is to be hoped, that the Association will cause it to be revised and corrected, and continue their endeavors to extend it; for if its execution were worthy of its admirable design, no more valuable contribution could be rendered to this science in America.

sary to recur to the records which, while they exhibit nothing inconsistent with the published reports, enable me to present a table showing the new cases in each year, and whether they originated in the prison or not, similar to that which has been deduced from the official reports of the State prison of Philadelphia ; and for the same time.

The law appointing a commission for the removal of insane persons from the prison to the State Hospital at Worcester, was passed in 1844, and in the course of that year, seven were thus removed ; the five mentioned in the table, and two more admitted in the same condition in 1829 and 1836.

(E.)

New Cases of Insanity in the Penitentiary at Charlestown, Massachusetts, in each year since 1836.

	Whole number.	Insane when admit ed.	
1837	0		
1838	1		sent to hospital at Worcester.
1839	0		
1840	1	1	sent to hospital at Worcester.
1841	0		
1842	0		
1843	1	1	sent to hospital at Worcester.
1844	2	2	sent to hospital at Worcester.
1845	1		cured in prison.
1846	1	1	delirium tremens, cured in prison.
	7	5	
Deduct insane when admitted. }	5		
	2		

It appears then, that only two cases of insanity have originated in the prison at Charlestown during

ten years past, which is one in 1474, less than one in a thousand, accurately .68 in 1000; so that the cases of insanity thus originating among the white prisoners alone in Philadelphia, have been almost thirty-six times as many, as among all the prisoners, white and black, at Charlestown. Of the two patients cured in the Charlestown prison, instead of being sent to the State Hospital, one, having recovered his tranquillity before the commissioners met, requested that he might be allowed to remain there and work. His request was granted and he soon regained his health. The other was admitted in a doubtful state of sanity, occasioned by the long continued use of ardent spirits, and was entirely cured by the regimen of the prison, in a few weeks.

It would be idle to ascribe the immense difference between these two prisons in this respect to climate or to any circumstance connected with their geographical position or other local cause, for there is no reason to suppose that there is more insanity among the population at large near Philadelphia, than near Boston. The census of 1840 would make it appear, that there is a great deal less in Pennsylvania than in Massachusetts, the difference being nearly as 58 to 81; but the details of this census are little to be relied on, and probably the proportion of insane is about the same in both. Dr. Brigham, superintendent of the Retreat for the insane at Hartford, says, that "in the year 1835 there were received into three of the institutions of Massachusetts from that State alone 124

patients who became crazy that year," and estimates that this was not more than half the number who became insane during that time. Twice that number, or 248, would be one in 3000, which seems a low estimate.

Sir Benjamin Brodie, one of the commissioners for Pentonville, states that in that prison, which was first opened in December, 1842, the cases of insanity in the first year were a little more than 9 in 1000; but that this excessive proportion was occasioned by peculiar causes, which after that year ceased to operate. He does not say what they were. The insanity for the three years since has been about as 1.48 to 1000, or very nearly one in seven hundred; and he doubts whether this is more than in the population at large. He means cases of positive insanity, not including partial delusions.

If this be taken as the rate in England, though there are obvious reasons for believing that the rate here is less than there, we could hardly put it so low as 1 in 3000, less than a quarter part of the number. It would seem extravagant to put ours lower than 1 in 1000, or about two-thirds of the insane persons that there are in England, in proportion to the population. But this would give 800 new cases of insanity every year in the State of Massachusetts; and 120, or 10 every month, in Boston alone. This is obviously too much; and perhaps Sir Benjamin may be mistaken in the conjecture, that the rate in Pentonville prison, viz. 1.48, is not greater than in the population at large; for this would give more than 21,000 new cases in

England and Wales every year ; and in London and its suburbs alone nearly 2700, more than 50 every week ; a number hardly credible without further evidence.

On the other hand, the estimate of Dr. Brigham, of one in 3000, making only 248 for Massachusetts, and 40 for Boston, seems too small, considering what a large proportion of the insane are cured, with our present means and appliances, during the first year of their illness. Perhaps 1 in 2000, or 400 to Massachusetts and 60 to Boston annually, is the lowest rate, that can justly be assumed, as 1 in 1000 is certainly the highest. The rate in the prison is very little more than one in 1500, viz. one in 1474. It is not intended to found any precise conclusion on the fact that this is so nearly midway between the two extremes ; but it authorizes the assertion, that on comparing the cases arising in the prison, with the most reasonable estimates of those in the rest of the community, it does not appear that insanity within the prison here is more frequent than elsewhere in the vicinity.

It will be observed that the rate of insanity spoken of by Sir Benjamin Brodie as excessive, and as only to be accounted for by peculiar causes, is hardly more than one-third of the ordinary average rate in the Philadelphia prison. If this last prevailed throughout the State of Pennsylvania, there would arise in that State more than 45,000 new cases of insanity every year ; and in the city and county of Philadelphia alone more than 6,700, a proportion exceeding that of deaths in the prison there, though this is so much greater than among persons of

the same age in its vicinity, exceeding, indeed, that of deaths in the whole population, including infancy and old age, which have no counterparts in the prison. At the same rate, there would be nearly 21,000 new cases of insanity annually in Massachusetts, and about 3,144 in Boston, a number far exceeding that of the deaths. What would become of us, if our weekly list of deaths were accompanied by a still longer list of insanities, and it were known, that this was not a rare calamity, but the ordinary course of events here? This city would be at once depopulated. Yes, even Boston. Its inhabitants would flee from it, as from the seat of a pestilence.

Such are the necessary deductions from the experience of Pennsylvania and that of Massachusetts. To ascribe the difference between the results of the two as to health and sanity to any local causes, would be too absurd for refutation. To ascribe it to any cause whatever not local, has not the slightest effect upon the argument. For if that cause, be it what it may, is equally frequent under both systems, it must produce the same consequences in both, and cannot account for any difference in their results. If, on the contrary, it is most frequent under one system, then this greater frequency itself, and all its consequences, are justly to be imputed to that system.

But the tables above given, appalling as they are, do not afford the full measure of this evil; for it is most important to remark, that they contain no cases but those of actual death or insanity. No case of debil-

ity or disease, bodily or mental, is entered here, until it reach that last extremity. Now is it possible to believe that there are no such cases, that all those, who have not attained this fatal consummation, are full of health and vigor, and able to go forth and battle manfully with the world? It cannot be. Many more must be treading the dark and downward path, who are yet more or less distant from its end. It is the natural, nay, it is the necessary presumption, that a mode of treatment which utterly destroys the health and reason of so many, cannot leave those of others entirely unimpaired. Is it consistent with justice or humanity to inflict a punishment which has this tendency?

The experience of New Jersey, the only other State of the Union, by which the system of solitary labor is now maintained, is not less instructive. This system was introduced there in October, 1836. The first report, made in November of the following year, exhibits nothing but success; the moral condition of the convicts and the efficiency of the punishment are spoken of as peculiarly gratifying; there had been little sickness and no death; and there had been preaching almost every Sunday by the clergy of Trenton, and visits from other pious persons. We are even told that the convicts removed from the old prison to the new, almost to a man, regret that they were ever placed at social labor, and dread meeting their old associates in crime after their discharge. "This simple fact" — as the Inspectors are pleased to call it, though it can be nothing more than their opinion, and this founded on no better evidence

than the representations of the convicts themselves, which, on such a point, are peculiarly worthless — “this simple fact alone speaks volumes as to the vast superiority of separate confinement with labor and instruction, in ameliorating the condition of the convict, over every system of prison discipline that we have any knowledge of.”

With the unqualified preference of their own system, in all respects, to every other so often exhibited by reformers, especially in the newness of their reform, the inspectors make the following remarks :

“But when we turn to the moral degradation, too glaring in those cells, where the miserable inmate has never been blessed with even the rudiments of moral culture, would you witness the stern severity of the Pennsylvanian system of separate confinement with labor, in its most appalling form, you will find it there ; where the unfortunate victim of neglected education is placed, by his violation of a law, of which, perchance, he is ignorant ; without one ray of hope glimmering upon his benighted mind, save the occasional instruction he receives from a keeper, the casual official visitors who may chance to call upon him, or the distant voice of the minister of the gospel, in his labor of love on Sabbath afternoon. All else to him is one vast vacuum ; the mind has nothing else to rest on for relief ; labor and sleep are his only comforters ; and, in his distress of mind, he either sinks down into stupidity, an object more of pity than of punishment, or, reckless of life, in his narrow cell, he sets the majesty of the law at defiance, resists the authority of his keepers, and subjects himself to the salutary restraints necessary to sustain good order in the institution.”

But in the very next year, the fact that the health and intellect of the convicts are seriously affected in the prison, is fairly stated ; though there seems to be

a disposition, then and for some years afterwards, to ascribe it to any cause but the true one. It appears that during the second year the deaths were *three* per cent.; and we have the following statement from the physician:

“The close confinement of prisoners in the New Jersey Penitentiary, so different from that of the old prison, must give rise to the question, whether being debarred from open air, sunlight, and suitable exercise, does not produce derangements of the system of a peculiar character. From the observations of the past year, I am convinced that there are diseases peculiar to the prison, and which will make the report less favorable to the health in the institution than what is expected.

“The tendency to glandular obstruction is seen in almost every prisoner who has been confined in the cells for more than a year, when he is in the least degree indisposed. The complexion is pale, of a dropsical hue, such as continued shade almost always produces, and the symptoms of disease of the internal organs are of the character that mark the languid action which prevails under such circumstances. Some *post mortem* examinations have been made, and in all of them the lymphatic glands were enlarged to an enormous degree, indurated and obstructed. There is reason to believe, had these deaths occurred in out-of-door practice, the same state of this important part of the system would not have been found. The obscure pains and dyspeptic symptoms that trouble many of the prisoners, are owing, no doubt, to similar obstructions, which must be regarded as the effect of solitary confinement, such as obtains in the New Jersey Penitentiary. The ranges of cells that have a southern exposure, and into which a small portion of direct sunlight is admitted, are the most healthy. In them there is less disease than in the others.

“The effect of solitary confinement upon the mind deserves some notice. In many instances there is remarked that weakness of intellect which results from an unexercised mind. The nervous system must suffer with the other parts of the body, from the causes already mentioned. If the prisoner's mind, on his admis-

sion into the cell, has not been of a reflective character, and capable of exercising itself on abstract subjects, imbecility is soon manifested, which leads him to amuse himself in the most childlike employments. If this confinement were continued for many years, such individuals would, no doubt, become permanently injured in their faculties."

The Inspectors, however, think differently, and their remark upon the subject is this :

"The influence of close confinement, and the expulsion of the sun's rays on the health of the prisoners, is a subject which has particularly engaged the attention of the physician, and to his report we respectfully refer you for the result of his observation. On this subject we will remark, however, that we have seen no evidence of the ruinous effects on the constitutions of the convicts, which have been ascribed to this mode of imprisonment. The prisoners generally present a pale and rather unhealthy appearance ; but this, we believe, is in consequence of living entirely in the shade, and not an effect of disease. In corroboration of this, we have observed that some who present this appearance most strongly, enjoy uninterrupted health."

In the third year the Report of the Physician contains the following observations :

"There are some among the convicts, who came from the old prison. While there they were in strong health, and for the first two years, in this penitentiary, complained little. Now they have become debilitated, are languid, and exhibit decided symptoms of a decline of their physical powers.

"Among the prisoners are many cases of insanity. Some on their admission showed symptoms of derangement, and since then have continued in the same state."

And again ;

"Among the prisoners there are many, who exhibit a childlike simplicity, which shows them to be less acute than when they en-

tered. In all who have been more than a year in the prison, some of these effects have been observed. *Continue the confinement for a longer time, and give them no other exercise of the mental faculties than this kind of imprisonment affords, and the most accomplished rogue will lose his capacity for depredating with success upon the community."*!!

In the report for the fourth year we have the following statements of the physician :

"The effect of solitary confinement on the prisoners in this institution is well determined, however different it may seem from what is reported of other similar establishments. As the punishment is carried out in this place, the result upon the convict is a diminished force of his organs generally ; and particularly a weakening of the muscular fibre ; obstruction of lymphatic glands, and vitiated nervous action. The mind suffers, in this state of the organs, when absolute derangement does not take place.

"In this prison, as much attention is paid to the health of the convicts as the nature of their confinement will admit. Wholesome food, abundantly supplied, sufficient clothing, cleanliness, kind treatment, all tend to make their situation as comfortable as possible. When sickness requires a departure from the law, the convict has a nurse in his cell, or he has the privilege of taking the air in the yard. As far, then, as this mode of treatment extends, every opportunity is afforded to make the system of punishment tolerable. But still the injurious effects are a constant cause of complaint among the prisoners ; and as they are making applications for pardon on this ground more than any other, the physician is constantly solicited for certificates of health, under the belief that his statements will go far to induce the court to suppose a further confinement will destroy the life of the petitioner. Some have been pardoned for this reason, who have died soon after they left the prison.

"As the tendency of the present system is injurious to the health of the convict, such alterations ought to be made in the arrange-

ments of the prison as will insure the greatest degree of health, consistently with the plan of solitary confinement. Some change ought to be made in heating and ventilating the cells. This is imperiously demanded. Confinement in a small, unventilated room will produce anywhere, and on almost any animal, the very effects which have been observed in our penitentiary. Some pathologists have lately been trying experiments on animals to prove the defects of a sufficiency of air and light, and the results of all their trials have been a development of tubercles in the lungs, and glandular obstructions — the very state of the organs that is produced in our prison. It was said in a former report, that *post mortem* examinations had shown excessive glandular obstructions; and also, that of all diseases, those of the chest were the most unmanageable.

“There are now amongst the 152 prisoners, 12 deranged men. More than half of these were fit for a Lunatic Asylum when they were received. Instead of receiving any benefit from their confinement, they became confirmed in their malady.”

In the sixth report of the physician we have the conclusion of the whole matter.

“Knowing the circumstances, under which mind and body suffer most, care is taken to avoid all such evil, as far as practicable. And now, while we admit the enervating tendency of solitary confinement, we can report for the last year no death amongst an average of 141 prisoners. There have been but a few on the sick list at any time during the year, and no case of insanity has originated in the house during this time.”

The cause of this great and extraordinary change may be learned from the physician himself.

“These very favorable results are to be attributed to the constant employment furnished the convicts, and also to the treatment the prisoner receives on the first appearance of disease. If his mind begin to fail, and he shows symptoms of derangement, *another convict is put with him in his cell.* THIS INVARIABLY RESTORES THE PATIENT.”

The uniform success of the remedy shows the true cause of the evil; as the nature of the remedy shows its extent. Enormous, indeed, must that evil have been, if the remedy was not worse than the disease. It is certainly a striking instance of blind attachment to a theory, of obstinate adherence to a single idea, that, — in order to prevent the corruption, which is assumed to be the result of the few stolen words, which may be exchanged, during social labor, under vigilant inspection by day, — convicts should be allowed unrestrained, unwatched, unlimited intercourse during the whole night.

It will be said, however, that this indulgence in cases where alarming symptoms appear, is not the system itself, but only an exception from it. This is admitted, but even as such, it is liable to these objections :

1. That depending on the arbitrary discretion of an officer, it must lead to individual preferences, and to inequalities of punishment, at different times and places under the same government, which would be inconvenient and unjust.

2. That it is an exception ; and provides only for cases in which alarming symptoms threaten the reason or the life of the convict, and not for the far greater number, who exhibit no terrific indications of disease ; but whose nerves and bodily and mental faculties, lose all their firmness, elasticity and vigor, and are reduced to that state of depression and debility which, though it has sometimes been deemed one of the best results of this system, tends in fact to disqualify them utterly for the active duties and labors

of life, by rendering them incapable of firm purposes or persevering efforts of any kind.

3. That the most artful and inveterate criminals, those most disposed to boasting of the past, to immediate corruption, and to schemes of mischief for the future, will find it easy, by simulating insanity or disease, to obtain intimate and unrestricted intercourse with others by night; for after the general rule is once dispensed with, the scrutiny in each particular case is not likely, on such a question as this, to be very searching; and thus such intercourse will in fact take place, in those cases where it will be the most pernicious, and be precluded only where it would be the least so.

4. That a system, which requires any exceptions at all *of this nature*, is in itself an intolerable system.

In the State of Rhode Island, the system of solitary labor was once established, but after about four years trial, was abandoned. There, as in other places, high expectations of success were indulged in the outset, and apparently confirmed by the first year's experience, although they were not expressed with the entire and unqualified assurance so often noticed elsewhere. Prisoners were first admitted in November, 1838. The first report of the inspectors contains nothing touching the effects of the system upon the convicts; the second, made in October, 1839, has the following remarks:

“It is as yet but the very commencement of an experiment in this State to diminish crime and reform criminals. There is good reason to anticipate successful results, and to believe, that it may be carried on without pecuniary loss to the State for the support of its convicts.”

Again :

“ Of the effect of the discipline and regimen of the State prison upon the convicts, the inspectors have a very favorable opinion. Experience shows it to be beneficial rather than injurious to health.”

In the third report, in October, 1840, the physician says, that there had been a great amount of sickness, and mentions as causes of it bad ventilation, occasioned by stopping the flues to retain the heat, and the want of more air and exercise than the discipline of the prison would allow. In the next report are found the following remarks of the inspectors :

“ By the warden’s report it will be perceived, that the labor done in the prison is not a source of profit to the State. This results partly from the fact, that solitary confinement prevents constant inspection. Many are inclined to be idle, and the undersigned believe that the cases, in which the taking away of labor would be considered by the convicts to be a hardship, are very rare.”

“ The inspectors further report, that the experiment of solitary confinement has not, since the prison has been in operation, proved perfectly satisfactory. They fear the effect is to injure strong minds, and to produce imbecility or insanity in those that are weak. They recommend your honorable body to consider if you ought not to direct the erection of workshops, in which the convicts may be compelled to labor, under constant supervision.”

The fifth report of the inspectors, contains this passage :

“ The affairs of the prison have been conducted on the same plan as during the previous year. Since the passage of the law, authorizing corporal punishment, no case has occurred to require its infliction ; but the advantage of possessing the authority is apparent. The undersigned, respectfully renew their recommenda-

tion, that you would cause a full examination to be made both of the State prison and county jail, with a view to deciding whether the present mode of separate confinement is not expensive to the State, and injurious to the minds of the convicts."

In the year 1843, the system of solitary labor was abolished by law, and that of social labor substituted, with satisfactory results. The warden of the prison in Rhode Island, who was also a physician, states, in a report, dated October 30, 1844, the result of his observations on the numerous cases of insanity, produced there by separate confinement. He considers this disease to be somewhat analogous in its character to the *delirium tremens*, the latter being occasioned by the sudden withdrawal of an unnatural but habitual stimulus, while the former arises from the privation of society, not only an habitual, but a natural stimulus, and one necessary to the healthy action of the brain. He states, that this insanity for the most part appeared after a confinement of from *six* to *eighteen* months.*

To all this it will be answered, as it has been to like statements, — "That the separate system does not prohibit any amount of society, but only the society of convicts. It admits as many visits as are requisite from virtuous persons." It admits them, indeed. But does it provide for them? Or can it do so? For it is not an abstract theory, but a practicable system, which it is my purpose to consider. Let us first see what is in fact done in Philadelphia; for it is not easy to believe, that what is not done in that great and

* See Appendix, No. II.

benevolent city for its favorite institution, is likely to be done anywhere else in America. Mrs. Farnham, the highly intelligent Matron of the female department, in the penitentiary at Sing Sing, in New York, having visited that of Philadelphia, in the year 1846, makes the following statement:

“Great pains have been taken by the citizens of Philadelphia and other parts of the State, since the erection of this prison, to give the system introduced there its highest efficacy. Their humanity and zeal are well known, and have been the theme of too frequent and warm praise to require notice from me. This prison and its system of discipline have together constituted an object of peculiar and earnest interest in Pennsylvania. Its original design was to inflict a greater degree of punishment than could be procured under the associate system. Its primary character and aim have, however, been much modified, and the desire to separate the criminal from his associates for purposes of punishment, has gradually been supplanted by the theory of secluding him from the influence of vicious associates, for the purposes of moral regeneration. His position is now declared to be, not a *solitary*, but a *separate* one; that is, *separate* from his associates in crime, from men equally abandoned, or worse than himself. All this seems very rational, and would be in fact so, and therefore liable to little objection, if with this separation a sufficient amount of stimulus and exercise could be afforded to the nervous system and the mental powers generally of the criminal. But these, it will be confessed, must flow to a large extent, from mingling with his fellow beings; from participating in their thoughts and emotions, from sharing their labors, from sympathizing with their afflictions, and being made glad by their joys.

“In an examination of this system, therefore, one of my particular objects was to ascertain what amount of social intercourse was afforded to those who were placed under its operation. With the advantages which I have named, it would be idle to suppose

that a state of things more favorable to a liberal and sound administration of the system will be anywhere realized than in Philadelphia. I was exceedingly interested, therefore, to ascertain how far all these advantages permitted the prisoner to conform to the laws of his mental being, in respect to the particulars which I have named. *The largest average which was given me of the time spent by each person in social intercourse, was by the warden. He thought it might be fifteen minutes of each twenty-four hours—perhaps with a great majority not so much. Those prisoners with whom I spoke, thought seven minutes would be a large statement of the amount of time spent by them in society!* A few who were peculiarly situated gave much more than this. But these were exceptions, existing under temporary and precarious causes. The periods of imprisonment range, in most countries, from one year or less to the length of the natural life. For terms of time, therefore, varying from those of short duration, to the whole of the natural life, persons condemned to this system must suffer a solitude so entire, that fifteen minutes out of each twenty-four hours will include the entire time spent in the presence or communion of a fellow-being! At least such must be their condition until a state of society is found very much in advance of any now known.” *Rationale of Crime, edited by E. W. Farnham, 1846, pp. 132, 133.*

The physician of the Eastern Penitentiary, makes also in his report for 1845, this statement:

“On the intercourse of the convicts with the inspectors, warden, moral instructor, schoolmaster, apothecary, and physician, I shall not enlarge; suffice it to say, that the bi-weekly visits of acting inspectors, enable them to see all in confinement at least twice during their two months on duty. The moral instructor and schoolmaster, devote their whole time to the service of the institution; the warden and physician visit every inmate once every two weeks, (many daily or twice daily, as circumstances may require,) and the apothecary, (an intelligent student of medicine,) as often

as his professional services may be required, or at any other time his leisure or inclination may dictate." *Seventeenth Report*, p. 67.

Having seen what is in fact done in Philadelphia, it may be worth while to consider what is practicable, and on bringing this question to the infallible test of arithmetic, it will be found that more than is done there could not well be accomplished. It appears, from the above table marked (B.) that the number of prisoners has been on an average for the last ten years, 364; let 360 be taken as more convenient for this mode of calculation. It is stated that the moral instructor employs from seven to eight hours a day, say eight. In this time there are 480 minutes, which is one minute and one-third for each prisoner. It is not to be supposed that he sees them all every day. He states himself, that he makes each day from sixteen to twenty visits. Suppose twenty, and allowing no time for passing from one cell to another, each visit is of twenty-four minutes, and each prisoner sees him once in eighteen days.

If the visits are more frequent, they must be shorter; or if longer, more rare; for they can amount in all to no more than a minute and one-third per day. The same estimate applies to the schoolmaster. The warden, considering his other important avocations, cannot probably devote more than two hours every day to visits, or one-fourth part of the time employed by the teacher; which will afford to each prisoner an amount of intercourse equal to one-third of a minute each day, and as he sees every inmate once a fortnight, each visit may be of four

minutes and two-thirds. Allow as much for the physician, and as much more for the apothecary, and we have altogether from these officers within the walls, three minutes and two-thirds in a day.

The inspector's visits are made twice a week, but cannot be supposed to occupy more than six hours; which will amount to a minute twice a week, equivalent to one-third of a minute a day. As they see all in confinement once a month, each of the monthly visits would be of ten minutes. A committee of the Philadelphia Society visits the prison not oftener than once a week, and it does not clearly appear whether so often. If they employ as much time as the inspector, or six hours in each visit, since they go half as often, it is equal to one-sixth of a minute per day. Or supposing that there are always nine of them present, and that they visit separately, we should have a minute and a half each day. If we allow that the governor, legislature, judges, juries, sheriffs and benevolent persons all taken together, occupy as much time in visits as the warden, or two hours every day, a large allowance, it will make one-third of a minute more, giving two minutes and one-sixth for all persons without the walls.

In allowing so much as six hours to the visits of the inspectors, and of the committee, and in many other respects the time given above is obviously over-rated very much, and in almost all respects not a little; and yet altogether it does not amount to six minutes a day; though it includes everything but the visits

of the overseers or turnkeys to open and shut the doors and carry to the convicts their meals, and the materials for their work. These are merely momentary, and cannot be supposed by any one to occupy in the whole more than five minutes a day. And as some individuals, from illness or other causes, must require more than the average time from the officers, within the walls, others must receive less than the average; and hence we see abundant confirmation of the warden's statement, that the time spent with a great majority is not so much as fifteen minutes in the period of twenty-four hours.

The tables already given, show the result of the system, as now administered in Philadelphia, allowing less than fifteen minutes a day of human intercourse to each convict. How much it would be requisite to provide in order, not merely to prevent those terrible results, but to maintain in full health and vigor the nervous system and all the faculties of body and of mind, is a question which, in the absence of sufficient evidence, must be left mainly to conjecture. No one probably would think of less than two hours a day. If we suppose this duty of visiting to be assigned to chaplains, as it usually is, and each to be employed eight hours daily, which is as much as can be required, one chaplain for every four convicts would be necessary to accomplish the object. The work would probably be divided, and one chaplain give half an hour a day to each of sixteen convicts. But then three others must give half an hour apiece to each of the

same sixteen in order to furnish them with the time specified ; and however this duty be distributed among them, their number must amount to at least one-fourth part of the prisoners ; or to ninety-one in Philadelphia, and seventy-four in Charlestown. Even to provide them with society for one single hour in the twenty-four, would require half these numbers. And who would dream of proposing to the State of Massachusetts, to employ and pay seventy-four or even thirty-seven chaplains for the State prison, or ask that of Pennsylvania for the still larger number ?

It has been said, however, that virtuous and benevolent individuals might be found to perform this task without compensation. What — seventy-four persons, or half that number in Massachusetts, who would thus devote not a part of the day, but the whole day and every day, year after year, to visiting the inmates of the prison ; or twice that number who would give half the day, or four times that number who would give two hours a day to this object, continuously, and regularly ! Let those believe it who can. It is a delusion. Besides it is requisite not only to find a sufficient number ; but to find them fit for the purpose. There are many worthy and benevolent persons, quite as likely as any body to undertake this task, who, if they were to talk to the prisoners as they talk about them, would do more harm than good. The report of the physician of the Philadelphia prison for 1846, contains some remarks pertinent to this subject, which may be cited.

“Though a sincere believer in the moral and intellectual advantages which the prisoner will derive from judicious conversation with official visitors, I would nevertheless suggest that the desire for his improvement, and the tact and judgment necessary to direct him in the right path, may not always be combined in the same individual; hence motives most benevolent and praiseworthy in themselves may either prove barren of good, or be productive of mischievous results.” *Eighteenth Report*, p. 64.

“As many of the sentences appear very unequal, even to those well acquainted with their history, and the prisoners generally being entirely ignorant of, or incapable of reasoning on the respective merits of their own cases and those of others, with whose trials and periods of imprisonment they happen to be familiar, they are but too apt to consider theirs to have been decided more by the vindictive feelings of witnesses or judges than by any settled principle of justice. As such feelings would not only pervert the functions of both mind and body, but seriously interfere with moral reformation, the most earnest efforts should be made for their removal. Indeed prisoners, either from an honest conviction or the love of deceiving, are but too apt to endeavor to impress others with the belief, either of their entire innocence, or that their sentences are disproportioned to their crime, and visitors, who are not on their guard, may give credence to their statements, and condole with them accordingly. Now this should never be; as no good, but positive injury, will arise from such credulity, by either encouraging the prisoner, if insincere in his deceit, or if sincere, in his belief; still further leading him to suppose himself to be the victim of a harsh law, and all those who administer it to be his enemies.” *Eighteenth Report*, p. 66.

One disadvantage of social, as compared with solitary labor, much insisted on, is this; that the convicts employed in the former will be more able to recognize each other after their discharge, and to tempt each other to new crimes. This is true, especially with

regard to those employed in the same workshop ; and it is a disadvantage. But it has been extravagantly overrated by those who have placed too much confidence in the statements of the culprits themselves. When two or more persons, formerly convicted, are again imprisoned, having united in the commission of a new crime, if you believe the story of each, they have all been tempted, and no one the tempter. We want some further and better evidence to show the actual extent of this evil in practice. In the meantime it should be considered that many of the convicts knew each other before their imprisonment, many will never meet afterwards, some are corrupt and need no temptation, some are reformed and will not be tempters.

As to the idea, that a man may be driven to commit a crime, by the threat of denouncing him to his employer as a convict, however, that may have once been here, or may now be elsewhere, it is now so here no longer. The fact is generally known to the employer, or if not, no discharged convict, under our present arrangements, finds any difficulty in getting a good place, or in keeping it if he is diligent and sober. Besides the man who should make such a threat, if it should come to the knowledge of the agent of the State or of the Society for discharged Convicts, would find his footsteps tracked by the police, and on his first offence would be sure of detection. This consideration, therefore, cannot be considered as at all countervailing those before mentioned in favor of social labor.

The example of Europe has been most emphatically cited on this subject, again and again. It is

said, that the opinion of all the governments and of almost all the men there, especially the most enlightened, is in favor of solitary labor; and that we should bow to their authority. In matters of science we have been accustomed to do so, and very naturally. Their ancient, great, and wealthy institutions, abundantly provided with the means of pursuing every investigation; the concentration in the metropolis of each nation of a large portion of its eminent men, encouraging, stimulating, instructing and rivalling each other; the rapidity and facility of intercourse between nation and nation; the facts that the pursuits of science there, like all others, are crowded, so that even for this boundless harvest the laborers are not few, that in this, as in other departments, there is a great subdivision of labor, and that multitudes can obtain a livelihood and distinction by the cultivation of science; all these give them advantages over us, which are only counterbalanced in a few rare cases, by our geographical position, or some other peculiar circumstance.

While, however, we listen with grateful and sincere respect to their teachings, we should not be blind followers, but enlightened pupils, exerting our intellect as well as our memory, capable of doing credit to our masters, appreciating their merit, imitating their example, and combining their experience with our own. In this one science of prison discipline, our experiments have been more extensive and varied than theirs, and this they seem themselves to have admitted by repeatedly sending eminent men as commissioners

to America to inquire into the result of those experiments; and their reports, embodying the information they received, with the fruits of their own observation, are highly valuable contributions to our knowledge on this subject. But it should be remembered, that most, if not all these commissions, came to this country between ten and fifteen years ago, when the systems here spoken of were comparatively recent, and when even those who administered them, were hardly yet familiar with their operation. Increasing knowledge having rendered us continually more and more competent to direct our inquiries properly and to draw just conclusions from them, our experience of the operation of these systems for the last ten years is not only longer, but more valuable in proportion to its length, than all which preceded it.

Inhabitants of Europe indeed may have received the annual reports from our prisons. But there are many things necessary to a thorough acquaintance with the practical operation of a system, which are not and cannot well be inserted in these. And of this they are aware, or why send any commission here at all? These reports might have been obtained without that ceremony. It is true, therefore, on this subject, more than on most others, that their opinions are not to be implicitly adopted by us, but to be fairly scrutinized, and their experience compared with ours, especially when the only practical question for us is, what system is best adapted to our own wants and condition. The example and opinions of Europe, however, have been so

frequently, earnestly, and indeed imperatively urged upon us, that it may be proper to make some more particular remarks upon the subject.

It is undoubtedly true, that the opinion which prevailed among the eminent men assembled at Frankfort in September, 1846, to discuss the subject of prison discipline, was in favor of solitary labor, or the Pennsylvania system, with modifications; and this opinion appears to be now generally entertained among the nations of the European continent. But in most of them it is purely speculative; few, if any, having had such experience of the actual operation of the two systems, as to warrant any judgment whatever on a question so eminently practical. They refer frequently to the experience of America, often exhibiting, however, a want of acquaintance with it, especially in recent times, which is hardly surpassed by our ignorance of theirs.

It should be remembered that in many of those countries, the present system, or rather practice, for it does not deserve to be called a system, is the same in substance which was prevalent when John Howard first entered those dens of pollution, where convicts herded together by day and by night, without discipline, without occupation, without instruction, and, but for the walls that surrounded them, without restraint, indulging in promiscuous and unbounded license. No wonder, that turning as they do to this country for information, they should prefer, of the only two systems now existing here, the one which seems most remote from their own; upon which last, now

that their attention is called to it, they justly look with unmingled abhorrence. This arises from a natural, benevolent and honorable impulse, but one which, wanting experience to guide it, leads them to excess.

It is possible also, that there may be circumstances in their condition, or peculiarities of their institutions, which may account for this preference, and without a knowledge of which we cannot tell how far we ought to be influenced by their opinions. This may be illustrated by an example.

Count Skarbek, of Poland, stated, at the convention of Frankfort, that the prison which had existed since 1835, at Warsaw, and three others, designed as houses for detention before trial, which had been ordered to be built in Poland, were calculated for the separate system.

It should, however, be known to the reader, that in most parts of the continent of Europe, persons accused are not released, on giving bail, as they may be in all but capital cases among us, but are put into houses of detention or jails, and instead of being admonished, as here, to say nothing, which can criminate themselves, are taken before the magistrate as often as he pleases in order to undergo private and searching cross-examination. Long before our systematic improvements in prison discipline were thought of, it was not uncommon to order the accused to be kept in entire solitude, until his examination should be finished. No one can wonder, that the contest between an astute and thoroughly-trained magistrate and a prisoner, without knowledge or ex-

perience, and ignorant of the precise bearing of most of the questions put to him, and of his answers, should usually end in self-contradiction enough on the part of the latter to ensure his conviction ; especially when it is considered, that the standing of the magistrate with his colleagues and with the public is naturally not a little affected by his reputation for success in such examinations. It is true, that these examinations, which are reduced to writing, are not, strictly speaking, evidence, but only considered as *adminicula* of evidence, and in many countries no prisoner can be convicted on these alone. Two witnesses must be produced against him. But it very often happens, that these witnesses say nothing to touch a hair of his head, so that for anything they know of the matter, he might go scathless as the judge himself, if it were not for the reading of these unfortunate *adminicula*, whereupon conviction is sure to follow. When this process of examination has been continued as long as the magistrate thinks fit, it is formally closed, and the accused is sent back to the jail, there to be detained for trial.

Count Skarbek, states, that it is the design of his government to extend the system of separate confinement by day as well as by night to *all* prisons. Yet that up to that time, they had limited its application to houses of detention for persons accused. As to prisons for convicts, he expressly states, that it had only been attempted to improve as far as possible the discipline of those, in which the prisoners lived in common ; ex-

cepting in a single instance, in which a great cloth manufactory at Sieradz, had been converted into a prison, on the Auburn system for 166 prisoners, where they were entirely separated by night, but labored together during the day. Prisons in which each individual has a separate cell, whether administered under the Auburn or Pennsylvania system, he calls cellular prisons, and contrasts them with those where prisoners live in common.

The Count states, that only two cases of insanity had occurred in the house of detention at Warsaw, during the ten years since its establishment, and mentions facts, which show that these cannot be ascribed to its system of discipline; but as we are not informed what length of time is usually occupied by the examination, during which alone the prisoner is separately confined, it is impossible to form any judgment of the weight or bearing of this statement.

The French report of the proceedings at Frankfort contains Count Skarbek's speech, in which are the following passages. They are very literally translated, even the punctuation being preserved.

“The house of detention at Warsaw contains 166 cells and 20 halls of from 12 to 14 beds for those prisoners whose examination is closed; and the three other houses of detention in the Provinces only contain cells proportioned in number to the wants of their localities, and have only two common halls designed for smugglers and those condemned to less than three months' imprisonment, who are employed in the internal service of the house.”

“This brief statement of what has been done hitherto for Penitentiary reform in the Kingdom of Poland, cannot yet promise

great results with respect to the influence of the system upon the morals of the people, for such results can only be obtained when the system shall have been developed in all its parts and fully put in operation throughout the whole country. Yet what I can affirm, is this : 1. That the state of health, in the cellular prisons, is far more satisfactory than in the prisons in common. The past year, in which Typhus fever decimated the prisoners in these last prisons, shows that the cellular system secures the inmates against contagious diseases ; for in the establishments of this kind, even in that which is constituted according to the Auburn system, that dreadful disease has scarcely seized a victim ; and while the mortality in them remained, as in ordinary years, at 3 per cent., it exceeded 10 per cent. in the prisons in common.*

* How greatly readers are liable to be misled by an abstract not carefully made, may be learned by comparing with the above an article, which appeared in the Boston Daily Advertiser of July 27, 1847. It is headed thus :

“ PRESENT STATE OF PRISON DISCIPLINE IN EUROPE.

“ The communications, made to the Penitentiary Congress at Frankfort, in September last, from the different countries of Europe, furnish an authentic account of the present state of Prison Discipline there, and particularly of the extent to which the Pennsylvania or Separate System has been adopted. It may not be uninteresting to present some facts which have been gleaned from these communications.”

“ *Separate System Prisons in Europe.*”

Its account of the prisons of Poland is in the following words :

“ In *Poland*, the Separate System has been for a long time in successful operation. A Prison on this system was built at Warsaw in 1835, which contains one hundred and sixty-six cells. In 1843 an appropriation was made to build three other prisons on the same system. Count Skarbek, a Councillor of State in Warsaw, and much devoted to the cause of Prison Discipline, stated at the Penitentiary Congress as follows : (1) ‘ The health of the Separate Prisons in Poland was more satisfactory than that of the Congregate ’ ; and, (2) ‘ During the ten years since the occupation of the Prison at Warsaw, there have been only two cases of mental alienation, one of which declared itself the morning after the

In this State any person accused and not able to procure the bail required for his release, is committed to jail for the purpose of securing his appearance at his trial, and for this purpose alone ; and any restraint whatsoever imposed on him, which is not necessary for this purpose, or for preserving good order in the prison, would be deemed a violation of his rights, nor can he be subjected *by compulsion* to labor or to idleness, to solitude or to society, any further than is necessary for the accomplishment of these objects. The same may be said of witnesses in criminal cases, who, if there is reason to believe that they will not appear to give evidence on the trial of the accused, may be confined, unless they can give security for their appearance. It is for this purpose alone that they are confined, and not as asserted by a recent French writer, with the fantastic design of securing the integrity of their testimony, for which it would indeed be a singular expedient.*

But little as is generally known here about the arrest, and the other was caused by too hasty treatment of the *plique* (*Plica Polonica*) ; but the latter patient has been completely cured."

The last sentence is an exact translation of the Count's words as contained in the French Report. But it will be seen that nothing is said of the 20 halls containing from 12 to 14 beds each, in all from 240 to 280, which are mentioned in the first passage above cited, in immediate connection with the 166 cells, without a comma between them ; and that the second passage is transmuted into a singular phrase, which is marked as a quotation.

* " On emprisonne préventivement les témoins en Amérique, pour s'assurer de la fidélité de leurs dépositions. On use de singuliers expédients contre la liberté dans ces pays de liberté." *Moreau-Christophe, sur la projet de loi.* p. 86.

discipline of prisons in most parts of the continent of Europe, much information at least with regard to opinion in France, may be derived from the proceedings in the chamber of deputies. The sentiments of a large number of the members on this subject are perhaps best exhibited in a report, made in 1840, by Mr. De Tocqueville, on behalf of a commission of the chamber, and in another report, made by the same distinguished statesman, on behalf of a similar commission in 1843. These reports, however, have not yet been definitively acted upon by the chamber of deputies.

They set forth at length the reasons of the commissions for abandoning the system of prison discipline then existing there, which involves the confinement of convicts in common, without effectual restraint by day or by night. To these it is unnecessary to refer, as no doubt exists here on that subject, and any discussion of it has long been entirely obsolete ; so that no one would now think of instituting any comparison at all between our two systems or either of them and prisons in common. The reports set forth, also, the reasons of the commissions for preferring solitary to social labor. These last reasons, or such of the most prominent among them as have not already been noticed, may require a few remarks.

The commissions admit in the outset that the system of solitude by night, with labor in common but in silence during the day, precludes the grosser immoralities and prevents in part the moral contamina-

tion of the existing prisons ; and that it makes labor more productive and is less expensive to the public than the system of labor in solitude.

The severity and frequency of punishments requisite in the opinion of the commissions for administering the system of social labor, are much dwelt on, and it is asserted that "in all the American prisons on this system a violation of the rule of silence is punished by a certain number of lashes ; and that the only American prison, where the lash was not used in 1831, has since adopted it." To all Americans the incorrectness of these statements is well known.

The commissions allege that silence cannot be perfectly maintained ; and that though it may be preserved to such a degree, as to prevent the grosser corruptions, yet the prisoners will still be able to make known to each other their former history and their future plans ; and that at any rate, the rule of silence will be so often violated, as to lose that power of repressing crime, which seems to them to be the chief merit of the system. Undoubtedly, a few stolen words are sometimes exchanged in the prison, but it is not believed here, that any sustained conversation, or any detailed communication of former adventures or of conspiracies for the future, can take place without detection. Nor is it, perhaps, possible to prevent all communication whatever between prisoners in any other manner, than by placing each of them in a solitary building under a separate roof. The sole object of prohibiting conversation in our prison is to

prevent corrupting and disorderly intercourse, and this it is supposed can be accomplished, and is accomplished here without frequent or cruel punishments. As to the influence of the rule of strict silence in repressing crimes, it may certainly be doubted whether any man among us finds his horror of being sent to the State prison much increased by the reflection that, if he get there, he will not be allowed free conversation with the convicts.

One striking consideration, in the opinion of the French commissions, is the fact, that most of the agents who have been sent from Europe to America, to observe on the spot the practical operation of our different systems of prison discipline, though some of them before their visits favored the system of social labor, all returned with a different opinion, being convinced of the powerful effect upon the minds of criminals of the separate system, though they saw it only in its most harsh and austere form.

No doubt, the effect of prolonged separate confinement upon the minds, the nerves, and the health of the prisoners, is always striking and sometimes even dreadful; and this effect was for a few years considered by many Americans as well as by foreigners, to be conclusive evidence of repentance and reformation. That it is not so in fact, when the prisoner is kept in solitude without labor, but only a proof of debility in body and in mind is now admitted; and though it is less speedy, less universal and less terrific when he is allowed to labor, yet so far as it does exist, it must be ascribed to the same cause.

The commissions think that the system of constant separation must be more easily administered than that of social labor; and that this last must necessarily require a much greater degree of vigilance, ability and trustworthiness in all the inferior officers; such a degree indeed as can hardly be expected from men in their position. The Warden of the Eastern Penitentiary of Pennsylvania says, in his sixth annual report, —

“The Pennsylvania system is one of privations rather than punishments; such it certainly has been during the last year, for very few cases have occurred requiring severity of treatment; with an increased number of prisoners, we have had fewer cases of refractory conduct than at any other period. This improvement I mainly attribute to the salutary change made in some of the under officers during the early part of the year. In all institutions it is important to have good officers, but in an establishment where the prisoners are kept separate and alone, particularly so; they have few opportunities for conversation, and when these do occur they are embraced with avidity, and the temper, morals and disposition of those who have almost the exclusive communion with them must have great influence on the criminal. The improvement I have alluded to, has therefore satisfied me that I was right in the changes that I made.” *Sixth Report*, p. 7.

It is known, also, that instances of the infliction of unlawful and cruel punishments have formerly occurred in that prison. These have not been mentioned, and are not now mentioned as belonging to the system, for they were mere abuses, and were corrected as soon as they came to the knowledge of the legislature. But this liability to abuse is in itself an objection; and since, under the separate system, these things take

place in the absence of all witnesses, the prisoner is entirely at the mercy of the officer, unless the assertion of the former is taken as conclusive proof, in which case the officer is in the power of the convict, and must grant him all the indulgences which he may choose to demand.

It is the opinion of the commissions that under the system of social labor, there are no means of maintaining discipline excepting the lash ; for hard labor cannot be imposed, since the prisoners already work as hard as they can ; silence is no punishment, for it is the uniform rule ; and solitary confinement can rarely be applied, because the number of cells is limited ; and besides, it takes the prisoner from his work.

With great respect it may be replied, that where each prisoner is confined in a solitary cell every night, there must be at least as many cells as prisoners ; and that to take them from their work, as far as is necessary for preserving the discipline and good order of the prison, is not only unobjectionable but in the end profitable. The whole objection rests on an erroneous idea of the frequency and duration of the punishments necessary to be inflicted for the maintenance of good order in a prison. It is perfectly obvious that every punishment, which can be applied under the system of solitary labor, may be as well applied under the system of social labor, together with the additional punishment of solitary confinement by day.

The commissions think that men work with more diligence, and that a trade is learned sooner in soli-

tude than under the constant inspection of a master and in the presence of fellow-workmen ; and assert that this is proved by experiments made in America, England, and France.

This allegation has been often made in general terms by the advocates of solitary labor. But when we ask the grounds of their opinion, we are met by the assertion, that men will work of necessity to relieve the weariness of solitude, and that all their attention will *naturally* be directed to their work ; or if we insist on evidence, are told perhaps of some one, who made a shoe after four days' teaching, or of a man who was so constantly at his loom, that he would not quit it for company nor hardly for his meals. Such particular instances, however, which are recorded because they are uncommon, prove nothing as to the usual course of events ; and although a man will resort to labor as a relief from solitude, it does not follow of necessity that his labor will be steady and efficient ; nor is it likely to be so, unless supported by a fixed habit of exertion previously acquired. To ascertain what its character actually is, we must look to its results. The table of earnings given above, is one piece of evidence on this point, and the juvenile department at Millbank will furnish another.*

We are informed that in the year 1839, the Inspectors-general of prisons in France met in council, and after long discussions came to the conclusion, by a large majority, that it is *possible* to learn and practise a

* See above, p. 77, and below, p. 160.

useful trade in solitary confinement. If this were adduced to repel the allegation that it is impossible, it would be, so far as their opinion goes, to the purpose. But it does not countenance the proposition which it is brought forward to support, that it is easier to do this in confinement than in company. No one ever doubted its possibility.

The suggestion of the commissions, that the plan of solitary labor will produce so great a reform in society, and diminish so much the number of criminals, and the length of their imprisonment, as ultimately to lessen the expense of justice, is a mere conjecture; and the idea that the French people suffer less than other nations from solitary confinement, and other privations which they know to be unavoidable, even if correct, would only show that a system fitted for them, might be ill adapted to others, in which case their experience can be no guide for us.

Under the head of *Opinion of the Royal Academy of Medicine*, both commissions cite the conclusion of a report made to that learned body on the 5th of January, 1839, by a commission of its own members, consisting of five eminent physicians. That conclusion is to the following effect:

“If the commission had to express its opinion what penitentiary system should be preferred, it would not hesitate to decide for the system of Philadelphia, as the most favorable to reformation.

“The commission having to declare itself only as to the sanitary question on the different systems, is *convinced*, that the system of Pennsylvania, that is to say, continuous solitary confinement by day and by night, with labor, and conversation with the officers

and inspectors, does not shorten the lives of the prisoners, nor endanger their reason."

Any one who has seen the conclusion thus cited by the commissions, but not the document containing it, will naturally desire to know whether it is founded on abstract principles, or on experience. If on abstract principles, high as the authority is from which it emanates, it can have little value in a science so purely inductive as this. But this could hardly be the case in Paris, where the learned men of the present day are the foremost to insist on an invariable adherence to the great rule, that in all the inductive sciences principles must be deduced from facts, and not facts from principles.

This conclusion then was undoubtedly founded on experience. But on whose experience? Surely not on their own; for the first place in France where the separate system was introduced was the prison of La Roquette in Paris, an establishment for boys, and at the time of that report this system had been in operation there not more than six months, and that only partially. It was in all probability founded mainly on the experience of America, as represented to them. Not at all doubting that these distinguished men decided correctly on the evidence before them, it is necessary to consider what that evidence was, in order to determine how much weight should be attached to their opinion at the present day. At that time the latest report which they could have received from the Philadelphia prison was that read in the Legislature of the State on the 8th of February, 1838, giving an ac-

count of the transactions of the year 1837, the very first in which the number of cases of insanity in that prison began to be regularly reported.

Independently of this, our experience in this country was at that time very imperfect. This system had not then existed here quite ten years, and it requires some time to put a new system into operation, some knowledge to make accurate observations, some experience to conduct a good experiment; and all the experience of America then was infinitely less accurate, complete and valuable than that which we have since acquired.

The opinion of the Commission of the Chambers on the mental effect of separate confinement is as follows :

“Even if mental diseases were a little more frequent in the new prisons than in the old, the commission would still say, without hesitation, that this reason, however powerful, is not sufficient for abandoning the system of separate imprisonment with all the social advantages that attend it.

“The old prisons caused physical suffering, and it was in this way mainly that they repressed crime. The successive improvements since introduced into the system, now permit a certain degree of comfort to be enjoyed under it.

“If imprisonment spare the body, it is just and desirable, that it should leave some salutary impression on the mind, thus attacking the evil at its source. Now it is impossible that a system specially designed to make a strong impression on a great number of minds, should not drive some of them towards madness. If this evil is, as the commission believes, very rare, however deplorable, it is still to be preferred to the thousand evils engendered by the existing system.”

The existing system in France last mentioned, is that of living together day and night without occupation, and almost without restraint, and anything is bet-

ter than that. But the sentiment previously expressed will not probably be adopted here. If suffering is to be inflicted because it is suffering and in order to deter others from crime, let it be inflicted upon the body and not upon the mind. Shame, mortification, remorse, the natural consequences of guilt are the inflictions of Providence, and must be endured, but the human intellect is too delicate an instrument, too precious, too little understood, to be made the subject of experimental torture at the hands of man. The idea that a mode of discipline which debilitates the mind of the convict can promote his reformation is entirely erroneous. He needs all its elasticity and all its firmness to enable him to maintain his resolutions of amendment.

Both Commissions of the Chamber append to their respective reports a note which contains the following statement:

“ Before 1838 no case of insanity or of hallucination appears to have shown itself in the Penitentiary of Philadelphia. At that time several are observed. One or two prisoners were on this account pardoned. From that moment the cases were multiplied but in opposition to the usual course of mental diseases a few days were generally sufficient to cure the patient. May we not suppose that some of these cases so easily cured and appearing in a prison remarkable for the good health of its inmates, were feigned, either in the hope of some temporary indulgence or of obtaining a pardon ? ”

Now it has already been seen, that five cases of insanity are mentioned in the Official Report for 1832.* In the Physician's Report for 1833 one person is

* Page 105, above.

spoken of who, though in good health on his admission, became insane in prison, not however, as the physician thinks, in consequence of the mode of confinement. And in the report for 1834, two of the persons discharged are stated to have been insane at the time. In the Warden's Report for 1835 he remarks that observation shows that there are many more idiots and insane in prisons than was supposed; and though he does not confine the remark to his own prison, it is obvious what it means.

As to the assertion that a few days were always sufficient for a cure in such cases, without inquiring what authority there might have been for it at that time, we may learn how the fact stands at the present day from the statement of the physician, contained in his last report, that for 1846, which has already been cited.*

Such are the opinions which now prevail extensively, and perhaps generally, in France. The experience of America does not afford them the support, which they claim from it, but appears to have been greatly misrepresented or misunderstood. As to the experience of France itself, the first prison providing for constant confinement established there was that of La Roquette, designed for children alone, to whom this system, according to the universal sentiment in England and America, is altogether inapplicable. It is not necessary, therefore, to speak of that prison here, though it there assumes the merit of entire success.

* See page 10.

The other prisons on the same system in that country, have been established too short a time to afford any experience to be at all compared with our own. It has, indeed, been gravely urged, that the experience of nineteen prisons for three years is equivalent to that of three prisons for nineteen years. This idea is altogether novel, and can hardly need a grave refutation. If it were just, a sufficient number of school boys might rival the experience of a Nestor. It has been already shown that all experiments of this kind have for a time been deemed successful, even those which turned out at last to be the most pernicious.

Some account of the French system, though not sufficient to make us acquainted with its practical operation, and enable us to imitate it, may be found in a letter from Paris to the mayor of Boston, published by the city government last winter, in which it is stated, that each convict there is visited every day by the director, surgeon and other officers named, in all amounting to seven. If this be so, and if each of these officers find time to appropriate six hours, or three hundred and sixty minutes every day, to these visits, each visit to five hundred prisoners, for such is the number proposed for each of those prisons, could not be longer than three quarters of a minute, and the whole seven visits would occupy but about five minutes in a day. Probably, however, these official visits are in fact, as the commissions propose, obligatory only once a week, in which case every prisoner would see each of his seven visitors for about

five minutes once a week. This as before would of course give him altogether five minutes of company every day.

Perhaps it may be designed that these visits should be much like those described in the third report of the inspectors of prisons, for the home district in England. They state, that they have frequently seen a governor visit 500 prisoners in separate cells in the course of a very few hours; and thus describe the manner in which visits are made by the governor and by the surgeon. "An officer precedes them in their rounds, and has already opened two or three cells in advance, and the governor or surgeon passes on from one cell to another almost as soon as an officer passes down a line of troops, stopping whenever a case requires further inquiry or communication."

Now this species of formal review is highly useful no doubt, and ought to be continued; but it does not amount to much social intercourse, nor detract much time from the loneliness of twenty-four hours of unmitigated solitude.

For the rest of his visits, the prisoner must rely on the voluntary benevolence of friends and strangers. From the same letter we learn, that each prisoner exercises, of course alone, an hour every day in one of a series of courts, some of which are adorned with flowers, and refreshed with fountains. As there is a considerable part of the year in our climate when this exercise could not be taken more than eight hours in a day, it would be requisite to have one such court

or garden for every eight convicts, that is, more than sixty for 500 prisoners and nearly forty in Charlestown.

The Commissions of the Chamber of Deputies condemn the unnecessary rigor shown in Pennsylvania, and consider the relaxations they propose as essential to the success of their system. How much aid they expect from benevolent societies and individuals does not appear. Nor is it important for us to inquire; for in this as in many other particulars, that which may be very practicable in France, may be out of the question in America.

The legal and social institutions and habits of England resemble our own much more than those of the rest of Europe do, and we know much more about them. In that country also, there have been far more extensive and varied observations on this subject, than in any of the continental nations. The experience of their great national establishments and its results, needs only to be briefly stated, in order to show how far the English system resembles that of solitary labor as administered here, and how far, such as it is, it has been successful there, or might be appropriate in America.

The first national penitentiary was built at *Millbank*, near London. It was opened, partially, to receive women in 1816, and for men in 1817, and completed in 1822. Its inmates consisted of those convicts who, having been sentenced to transportation, had their punishment transmuted for confinement in this prison by warrant of a Secretary of State. In consequence of a

contagious disease which broke out in this prison in the winter of 1823, ascribed by some to a reduction in the quantity and quality of food, which had been made to meet the popular complaint that convicts in the prison lived better than honest laborers without, the prisoners were all removed and the prison remained closed till 1824 ; since which time it has been constantly occupied. The prisoners were originally divided into two classes, in each of which it was intended that they should pass half the time of their confinement. Those in the first class, after coming out to wash, eight at a time, in the morning, pursued their several occupations in their cells, till it was the turn of their ward to work at the water-machine or at the corn-mills. The prisoners of each ward, thirty-two in number, worked four times a day in company at these machines for half an hour each time in summer, walking afterwards in their own airing-yard for a quarter of an hour, and then returning to their cells. They walked two and two, and were allowed to converse with their companions, provided the conversation were not carried on in a loud voice.

The arrangements made for the schools, and calculated particularly for the first class of prisoners, were as follows. The schools were held on two evenings in every week, the number of pupils in each school being sixteen, and the school lasting about an hour and a half.

The convicts belonging to this class labored separately in their cells. To what good end it is difficult

to imagine, since they were allowed to converse, unheard by the officers, every day during their walks.

Convicts of the second class worked several together in larger cells by day, but were kept separate at night; and they walked more in their court yards, and worked less at the machines and mills than those of the first class.*

In the year 1832, this second class was abolished, and thenceforth every prisoner worked alone in his cell; and in 1837, on the appointment of a new governor, conversation in the yards was prohibited and various other restrictive measures adopted, all designed to carry out as far as possible the *principle*, as it was called, of non-intercourse.

As early as the 11th of May, 1839, the deaths and cases of insanity had become so frequent and alarming, that a distinguished physician was called in to visit the prison twice a week for six months; and in February, 1840, the eminent Dr. William Baly was appointed with the consent of the Secretary of State to visit the prison twice at least in every week for the space of twelve months, in order, "that the condition and health of the prisoners and the physical effects of the discipline should be narrowly watched by a competent medical man, in conjunction with the resident surgeon."

Dr. Baly, accepted the appointment, and made his

* Holford on Millbank, p. 68, &c.

report in May, 1841. Considering the remarks made on this report by the superintending committee, and the character of its author, it is greatly to be regretted that the British government has not seen fit to publish it.

The inspectors of the home district express their opinion, that this impaired state of health must be attributed to some other cause than the increased strictness of the separation and discipline, which had then recently taken place. But the remedies prescribed by Dr. Baly, and the success of those remedies leave no doubt on this subject. The official reports of the superintending committee of the Millbank penitentiary for the years 1841 and 1842, will make this apparent.

[*Extracts from the Millbank Report for 1841.*]

“Great alterations have been made in the discipline of the institution. In consequence of a distressing increase in the number of insane prisoners, the committee, under the sanction of Dr. Baly’s report, which will afterwards be noticed, came to the resolution, that it would be unsafe to continue a strict system of separation for the long periods, to which the ordinary sentences of prisoners in the penitentiary extend. They therefore proposed that the system should be relaxed with regard to all classes of prisoners, except two, viz., military prisoners, (whose sentences in general are extremely short,) and persons convicted of unnatural offences; and that, as to all other prisoners, the prohibition of intercourse should be limited to the first three months after their admission, and that upon the expiration of that period, they should be placed under a system of modified intercourse, consisting of permission to converse during the hours of exercise, with two or more fellow prisoners; the privilege to be suspended for miscon-

duct; and such a classification, with reference to age, education, character, and conduct, to be adopted, as would render the indulgence as little injurious as possible, in a moral point of view. The committee also proposed, that wherever the medical officer should have reason to believe, that the mind or body of any prisoner was likely to be injuriously affected by the discipline, he should have the power of suggesting a change in the particular case.

“The rules for effecting the foregoing alterations, having received the sanction of the Secretary of State, were brought into operation on the 14th of July last.

“A sufficient time has not yet elapsed, to enable the committee to form an accurate judgment of the comparative merits of the old and new systems, in their various important bearings. They are, however, inclined to believe, that no scheme of discipline in which intercourse between prisoners, however modified, forms an essential part, is ever likely to be made instrumental, either to the prevention of crime, or to the personal reformation of convicts, in the same degree as a system of separation. Whether the latter system can be rendered compatible with the maintenance of the mental sanity of prisoners, is a subject of much controversy, and can only be determined by actual experiment, accompanied by such advantages as are proposed in the model prison.

“It was solely with the view to the prevention of insanity, that the change of discipline was introduced here in July, 1841. During the five succeeding months of the year, only two prisoners became insane, both of whom, under medical treatment in this institution, speedily recovered their reason; but one of them in the present year has suffered a relapse, and has been removed to Bethlem Hospital. As far therefore as can be judged from the present short experience, the change in the discipline appears to have had the effect of rendering the recurrence of mental disorders less frequent; but the lapse of another year must be awaited before a positive conclusion can be safely formed.”

“Dr. Baly having been appointed in February, 1840, for the purpose of narrowly watching, in conjunction with the then resi-

dent surgeon, the health and condition of the prisoners, and the physical effects of the separate system in the penitentiary, completed his report in May, 1841. That report has led to the change of discipline above described, and to various other alterations, some already completed, and others still in progress, such as the enlargement of the airing-yards, the filling up of the moat, the improved system of warming and ventilating the cells, &c. It is only an act of justice to Dr. Baly, to state, that his report is a most able and elaborate document; it not merely embodies the results of his unremitting observation at the penitentiary during fifteen months, but it takes a searching and comprehensive view of the difficulties connected with the subject of imprisonment, fortifying its conclusions throughout by statistical data, drawn from a variety of sources, both foreign and domestic. It is, in short, a document calculated to throw important light on the science of prison discipline."

[*Extract from the Millbank Report for 1842.*]

"In their last report, the committee stated, that in consequence of a distressing increase in the number of insane prisoners, a great alteration had been made in the discipline of the institution, and that the separate system had been relaxed. The general outline of the new system, which came into operation in July, 1841, is, that the prohibition of intercourse between prisoners, is now limited to the first three months after their admission, and upon the expiration of that period, they are placed under a system of modified intercourse, consisting of permission to converse, during the hours of exercise, with two or more fellow-prisoners. This privilege is liable to be suspended for misconduct, and the governor is empowered to adopt such a classification, with reference to age, education, character and conduct, as may render the indulgence as little injurious as possible in a moral point of view. A year and a half having elapsed since this important alteration, the committee feel, that they have had sufficient experience to justify them in forming an opinion of the comparative merits of the new and old systems. It was solely with a view to the prevention of in-

sanity, that the new system was introduced, and in that important point it may be regarded as having been successful ; for during the eighteen months preceding the introduction of the system of modified intercourse, fifteen prisoners became insane, whereas during the eighteen months succeeding, five cases only of insanity have occurred.

“ Intercourse between prisoners, however modified by limitation of numbers, or checked by the power of classification, can hardly ever fail to be injurious on moral grounds. Considering the past habits of the generality of the prisoners, it is too much to expect that their conversation will be harmless ; they walk in parties of three each, and there is no officer to overhear what passes between them ; but there have been many instances where prisoners have been so disgusted by the language of their companions as to have complained of it ; and it is to be feared that the evil thus occasionally brought to light, bears but a small proportion to that which continually circulates without detection.

“ The produce of the prisoners’ labor has been considerably less than it was under the separate system.

“ It is some satisfaction to know, that in several instances, the privilege of intercourse has been employed as the means of imparting and receiving good, and that some prisoners, who entered the establishment in a state of deplorable ignorance, have acquired valuable instruction from their companions in their daily walks.”

It was also provided at Millbank, in 1841, that the prisoners of unsound mind, with such scrofulous or debilitated persons as most required relaxation of discipline, should be classed together and called invalids, should walk apart from the other class, which also required garden exercise, and while in the garden, should be allowed to converse promiscuously ; and, moreover, that whenever the surgeon might think it necessary,

two or more prisoners under treatment for insanity, might be placed in the same room, and while there, have the privilege of conversation, an infirmary assistant being with them at night.

After the establishment of the Penitentiary at Pentonville, the Penitentiary at Millbank was converted into a Depot for the reception, previous to their shipment, of all convicts sentenced to transportation, in any part of Great Britain. The whole number of commitments to this Penitentiary for the last four years is 13,000; but in this number the persons transferred to Pentonville, and afterwards sent back, are twice counted, so that the number of separate prisoners is somewhat less. The number of cells is about 1,000, and the greatest number of prisoners at any one time has been 1484. In this prison, the adult prisoners are kept separate by night, *and while at labor* by day, as far as their number will permit.

With regard to juvenile convicts at Millbank, that is, those under the age of 20 years, no attempt is made to keep them separate, but they work together by day and sleep in one room at night, but always under the supervision of officers. It is stated, that in the year 1845, the average daily number of such juvenile convicts was 203. They were employed in social labor, and the result of that labor was, that while the average earnings of the whole prison including them, was £4.9.5 $\frac{1}{4}$ per head in a year, the average earnings of the young convicts employed in social labor taken alone, was £7.6.6 each. The inspectors, in their official report for that year, as-

sign as the first reason for this difference, that “by the establishment of the juvenile ward, which has been in full operation the whole year, more than 200 prisoners *worked together, by which means considerable facilities are afforded for instructing them in trades and for superintending the work carried on.*”

Capt. J. R. Groves, who has been Governor of Millbank for four years past, and to whose custody have been thus committed from all the Prisons in Great Britain, the convicts sentenced to transportation; and during the last two years the convicts who, having completed their preparatory education at Pentonville, were sent back to Millbank to pass a few weeks in modified intercourse before their transportation, in his testimony before the Lords Committees on the 23d March, 1847, volunteers, as the result of his observation, the following statement:

“I might be permitted to remark, that in the course of my experience as the Governor of the Millbank Prison, I have observed in those prisoners who have left it, and in prisoners coming from different prisons, a very great indisposition to labor; and it is this aversion to work which I have been endeavoring to counteract during the time I have been Governor of the Millbank Prison. It is my firm opinion, without undervaluing the agency of religious instruction, that habits of industry are not sufficiently inculcated or attended to in those prisons that have come under my observation. I do not think that a spirit of industry is sufficiently enforced as a matter of discipline. However, there is a great difficulty in obtaining work in almost every prison. I was asked a question, whether I thought that a system combining hard labor at home upon the public works would be a good system; I think it would, under proper regulation, because there would be a sufficiency of

work to ensure a proper quantity being done, and thereby habits of industry would be acquired by the prisoner, which I think to be a very great agent in any reformatory process."

Capt. Groves states particularly, that he was much disappointed in the first draft of 200 sent to him from Pentonville, and that they were very unwilling to work.

The worst class of convicts, those destined to Norfolk Island, remained at Millbank about six months; the majority, on an average, about four months, and some only a few days. Those in the Juvenile Ward remained there from twelve to fifteen months.

The deaths at Millbank, in 1843, were 1.89 per cent.; in 1844, they were 1.87 per cent., and in 1845, 1.51 per cent. But of these, the juvenile class, who live and work together, formed by far the smallest proportion; the deaths among them in 1845, being only .98 per cent., while among the adults alone they were 2.53 per cent. There were four cases of insanity, all adults, in the whole Prison in that year, which, on an average number of 984, is 4.27 in a thousand.

In the same year, 1837, in which the strictest system of separation that ever existed at Millbank, was established there, the Inspectors of Prisons for the Home District in England, in their annual report, set up a comparison between what they style the separate and silent systems of prison discipline, and express their unqualified preference, on every account, of the former. Their report of the next year is a still more elaborate argument in support of the same sentiment,

comprehending all the reasoning and all the evidence which had appeared in any quarter in its favor, together with the opinions of several eminent men on the same side.

In consequence of these Reports, and of the representation of the Inspectors, that the construction of the buildings at Millbank rendered it impracticable to keep the prisoners entirely separate from each other at all times there, the new Penitentiary was built at Pentonville, in perfect conformity with their views, and was intended to be a model for all England.

The prisoners were to be men, selected from all those sentenced to transportation in Great Britain, between eighteen and thirty-five years of age, whose sentence was for not more than fifteen years, generally those condemned for a first offence, and such as were in perfect health and seemed to be best fitted for the discipline of the institution. The Surgeon at Pentonville had discretionary power to refuse to receive any one, with whose appearance on examination he was dissatisfied. It was intended, that after an average confinement of eighteen months, they should be transported to Van Diemen's Land, but subject to different degrees of restriction on their arrival there, depending on their conduct in prison. The Government indeed positively required, that no one should be admitted to this Penitentiary who was not irrevocably doomed to transportation.

The Chapel is divided into stalls, so that while all the prisoners see the preacher, they cannot see each

other. But as it contains seats for only half the number of prisoners, each convict attends prayers but once a day, and hears three sermons in a fortnight, that number being preached every Sunday. Two days in the week, beside Sunday, are devoted to instruction, which is given by the principal schoolmaster in the chapel, and by his three assistants in the separate cells. As only every alternate stall in the chapel is occupied in school hours in order to prevent communication, no more than one sixth part of the prisoners are present at the same time, and each school lasts two hours. They read and recite aloud, and there was a case of punishment in 1845 for "wilfully creating laughter, and causing interruption and confusion in the school by improper questions and remarks." Very nearly half the whole number of punishments inflicted on the prisoners are for communicating or attempting to communicate with each other.

The prisoners take turns in cleaning the corridors every morning, which occupies an hour, during which time several are in company with each other, but under the supervision of an officer to prevent all intercourse. They likewise walk every day to their exercising yards in company, but under similar supervision and at fifteen feet distance from each other. But in order to prevent their subsequent recognition of each other, each prisoner while exercising, washing the corridors, or passing to the chapel, or yards, is obliged to wear his cap-peak over his face ; that is, to draw down the leather visor of his cap, which is long enough to

reach to the mouth, and has holes in it to peep through. This is deemed to constitute complete separation.

All their work however is done in solitude ; for which there seems to be no good reason, since their cap-peaks might easily be so contrived as not very greatly to impede their labor, and in that case they might, in the open air, or in large workshops, at fifteen feet distance from each other, have labor and exercise at the same time, and a great deal more of both.

The most striking peculiarities, however, of this masquerade are the reason for it and the termination of it. In the second Report of the Commissioners of the Pentonville prison we find the following passage :

“The utmost vigilance has been exercised in order to maintain inviolate that important principle of separate confinement, which deprives prisoners of the means of recognizing each other on leaving the prison. To effect this object, each prisoner when out of his cell for any purpose, wears his cap with the peak down, which is sufficiently large to cover his face as low as the mouth, and effectually prevents prisoners from becoming acquainted with each other's features.”

The British government appears to have been fully aware of the immense importance of this *principle*, and determined to carry it out to the uttermost ; and accordingly, in order to “make assurance double sure,” and to render it absolutely impossible that any one of these prisoners should ever recognize another, they caused them, on leaving Pentonville, to be placed, three or four hundred together, on board a convict ship, and to make a voyage of four or five months to Van Diemen's

Land, without cap-peak, mask, visor, veil, or any other concealment of their features whatsoever.

Let us now consider the result of this system ; remarking, however, that as the situation of the prison is healthy, as its inmates are picked men, and as it is not uncommon to send back to Millbank or to the Hulks those found to be unfit for the discipline of the institution, and to procure medical pardons for those affected with consumption or other fatal disease, that they may go out of the prison to die ; the health of the prisoners, after all this sifting, ought to be far better and the deaths much fewer than that of persons at large of the same age in the vicinity. But if the medical pardons are counted as deaths, as they ought to be, this is far from the fact. For the four years during which the prison at Pentonville has been occupied, the actual deaths have been 6.64 in a thousand, the deaths, including medical pardons, 15.70, and those in the population of London, between twenty and forty years of age, 10.60 in a thousand. The cases of insanity were for the first year, 9.03 in a thousand, for the whole four years 2.29, and for the last three years alone 1.48. But this does not include cases of delusion. If these were included, the proportion would be more than three times as great as that last mentioned. The cases of mania all occurred within the first fourteen months, nine of the twelve cases of delusion within the first ten months, and the other three from the fifteenth to the twenty-first month.

The first embarkation of prisoners from Pentonville

was made on board the Sir George Seymour in October, 1844, and consisted of 345 who had been in the prison from fifteen to twenty-two months. The Surgeon-superintendent of that ship states, that he "experienced some difficulty in berthing and arranging these men, who, apparently from not having been associated together for some time, were slow in comprehending orders, and equally slow in obeying them, though evidently tractable and willing; in fact, they had lost their gregarious habits, and did not again acquire them until after some weeks."

"The sudden change from great seclusion to the bustle and noise of a crowded ship, produced a number of cases of convulsions, attended in some instances with nausea and vomiting, in others simulating hysteria, and in all being of a most anomalous character. The recumbent position, fresh air, mild stimulants, &c. were found beneficial in all these cases, and after three days the convulsions disappeared."

In a subsequent letter this officer says, that his expression as to the loss of gregarious habits had been greatly misunderstood, "that he only meant that the men had lost the habit of acting in concert as prisoners generally do; that so far from this being a matter to be regretted, he considered it a great gain, as the general habit that prisoners have of acting together is injurious." He adds, "that there was no want of energy amongst them, no lassitude, and that he decidedly would have preferred them to other convicts as active, cleanly and industrious; that they were physically as

well and morally better." He says also, that the convulsions were altogether hysterical, and were propagated by imitation, and ceased after the third day, leaving no bad effects.

The commissioners of Pentonville ordered that thenceforth the prisoners should "be associated together" at Millbank, for a few weeks previous to embarkation, thus showing that they did not think these indications of disease entirely unimportant, and that they could guess their cause. The great gain, which the prisoners derived from losing their gregarious habits, does not appear to have been of much practical use to them, since they reacquired those habits after some weeks. Whatever confidence may be placed in the Surgeon-superintendent's opinions, at least as much must be placed in his statements of fact, and to be slow in comprehending orders, and slow in obeying them, however gainful it may be on board a convict ship, is no qualification for earning a living in this country.

The Surgeon-superintendent of the Maitland, which sailed from England for Van Diemen's land in June, 1846, having on board 299 convicts, of whom 196 were adults from Pentonville, the rest boys from Millbank and Parkhurst prisons, says, "there has not been any decided case of mental imbecility on board this ship, but I have observed several laboring under a sluggishness of intellect, a slowness of thought and action, for the first few weeks they were on board, but which has now entirely worn off." As the convicts in this country must go forth, at the end of their imprisonment,

into society unfettered and unrestrained, to earn their own living, a system which renders them incapable of doing so even for a few weeks cannot be adopted. When the only alternative, for however short a time, is starving or stealing, it is not to be expected that even the most reformed of our convicts should be saints enough to choose the former; and once returned to their old courses and their old companions, they will not of their own accord quit them again.

The official reports of the commissioners for the government of Pentonville are all pictures of complete success. The last, dated March 10, 1847, recapitulates their early prophecies of the perfect operation of this system, and claims for them the merit of complete fulfilment; dwelling particularly on the immense benefit conferred upon the Australian colonies by sending there Pentonville prisoners, and on the eager desire of the colonists to receive them.

But before that report was written, a cry from those distant regions had already reached the ears of the British ministers, and had led to a scrutiny, the result of which was a determination, that the transportation of convicts to Australia must be suspended for years, if not abolished forever. Probably it would be abolished, if it were not for the difficulty of deciding in what other manner to dispose permanently of three or four thousand convicts a year.

It may be remarked also, that at the time when this last report was made, some of the individuals connected with this institution, speaking under that deep sense of

personal responsibility which can never be so strongly felt by any official board, express themselves with a degree of hesitation as to the perfect success of this system, somewhat different from the unbounded confidence of earlier days.

The chaplain, in his last report, dated February 13, 1847, observes that "the monotony of solitude has been broken every day by *social worship*, in which they take a part and feel an interest — an immense support to the mind — and weekly more than once, by collective instruction in school." He states, that *the greater part* have not been unduly depressed, and when they begin to take an interest in trade or education are remarkably cheerful. His report contains also the following passages :

"But asserting thus my conviction as to the favorable results in general of the experiment in Pentonville as regards mind, I am compelled, by another year's most anxious observation on the actual working of the system, to say that there are cases where it is otherwise, — *i. e.* where men taking no interest in religion, or books, or trade, and having no confidence in any one, make their confinement one of almost absolute solitude."

"My impression is, that cases likely to prove unequal to separate confinement are generally discoverable from three to six months after reception."

"Now there seem to me to be several conditions of mind from which danger may be apprehended, viz.

"1. When, from sullen obstinacy, no interest is taken in any instruction given here.

"2. When, from want of capacity to learn books or trade, there is no progress.

“ 3. When, naturally active and energetic, it has ceased to make progress.

“ 4. When it dwells intently and exclusively on any one subject.”

“ The duration of separate confinement here has varied from fifteen to twenty-two months ; and a great number of these men had undergone, from their conviction to their final departure from England, fully two years’ confinement.

“ Now certainly very many, indeed I would say the most, of those who endured longest imprisonment, appeared to me not to have suffered *materially* in any respect. They seemed, however, to have become less robust, or to speak more correctly, according to my own impression, from distinct recollection of them on entrance, positively delicate. Almost every one of them complained of a loss of strength.

“ But, however this may be as regards the physical energies of the men, there seems no sufficient reason, on moral and religious grounds, for wishing for any extension of the period of separation beyond eighteen months, *but the reverse.*” *

“ I have therefore desired to see here not only the advantages which separation affords for breaking off old habits, for instilling right principles, and for forming new habits of thought and right feeling, but also *some well-directed means for giving them daily exercise in the active duties of religion and society, before they pass from their almost solitary condition here, into the world again.*

“ I think it should never be forgotten that what is aimed at in all the costly efforts for the reformation of men here, is not only to keep them from further evil and final destruction to themselves, but also to fit them for society and the active duties of life, and that both these objects cannot be fully secured by separate confinement.

“ From what I have observed of the men upon their being brought together prior to embarkation, and especially *on the first*

* The italics are the chaplain’s.

of these occasions, I am persuaded that much additional good would be accomplished, after a period of separate imprisonment, by a well-regulated system of associated labor, instruction, and worship.

“Men really reformed would prove, as I have seen them on board the ships referred to, most useful to their fellow prisoners; the greater part would prove capable, I am confident, of being raised to proper feelings as men, and the thoroughly bad would be sooner discovered than is possible under separation, and disposed of as they deserve.”

Major Jebb, one of the commissioners for the management of the Pentonville prison, and high authority on this subject, in his testimony given before the Lords Committees, March 22, 1847, uses very guarded language. Having stated that the prisoners are very carefully selected as fit subjects, between the ages of eighteen and thirty-five, free from all diseases, which would render them likely to fail under the separate system, especially from any predisposition to insanity or consumption, carefully examined by the medical officer at Millbank before being sent to Pentonville, and again by the medical officer there, who may refuse any one; he adds, “With these limitations the discipline has been generally safely carried out, as far as I have had an opportunity of judging. I think we might make some little modification in those cases, where the health apparently is beginning to fail; some little modification in those cases would be necessary, in order to insure a better result than that which we already have had.”

Of the prison at Parkhurst, though a national institution, it is not necessary to speak in detail, since it

is not so much a penitentiary for men, as what we should call a house of reformation for juvenile offenders. Its inmates are selected from those sent to Millbank for transportation, under the age of sixteen years. They pass two or three years in this prison. For the first four months the prisoner works and takes his meals in his cell, but is taken out of it twenty minutes in the morning to wash, shortly afterwards an hour to attend in the chapel, an hour and a half for exercise, two hours at school, and fifteen minutes for evening prayers, at all which times, as well as in the chapel on Sunday he is in company with other boys, but is not allowed to speak to them.

After this period of probation, he is placed in a ward containing between one hundred and two hundred individuals, who work together, take their meals together, and exercise together, and are allowed free conversation while exercising in the yards four times a day ; but who are at all times under the inspection of wardens.

This institution, first opened in December 1838, has been eminently successful. There has been no case of insanity, and the deaths have been somewhat fewer than among the free population of the same age in the vicinity, as they have been with us in Charlestown.

The general penitentiary for the kingdom of Scotland is at Perth. The prisoners confined there are not destined to transportation, but at the termination of their imprisonment return into society ; and in this respect that prison resembles our own more nearly than

the penitentiaries of England do. The system of discipline imitates that of Pentonville, excepting that the prisoners receive all their instruction in their cells. This amounts on the average to about seven minutes in a day. They exercise in yards and galleries in company sixty-four minutes and a half every day, with the same mummary of cap-peaks as at Pentonville ; but at the distance of six feet from each other instead of fifteen feet. To prevent their overstepping this limit, a long rope is provided having loops in it at this distance from each other, in one of which each prisoner inserts his hand, while he walks round the yard for his sixty-four minutes and a half.

This procession, which must resemble the march of a gang of galley slaves more than anything else, being an appendage to the *separate system*, is no doubt admired by those, who consider the marching of the prisoners at Charlestown, in a single file from their cells to the chapel, *as a violation of the rights of man* ; and who maintain, “ that all these *enforced evolutions of grown-up men*, tend to destroy the individuality of character, to lessen self-respect, and to degrade responsible beings into irresponsible machines.”

The testimony in relation to the prison at Perth, before the Lords Committees, taken April 16, 1847, is not entirely satisfactory. Not that any doubt is entertained of the integrity of the witnesses ; but some of their statements seem to invite a little cross-examination. For one instance, the sheriff of Perthshire stated, that “ unless from indisposition, or a tendency

to weakness of mind, or some other sufficient cause, the separation was carried out strictly."

It is important to know what and how many are these sufficient causes, and in what manner they are provided for. Is it by permitting the invalids to be put together into a garden and allowed free intercourse with each other by day, or by lodging two or more of them in the same room at night?

To be frequently in company with others having cap-peaks over their faces, is the daily practice both at Perth and Pentonville, and we are assured by grave governors and by reverend chaplains, that the prisoners, who have been thus associated every day for months, can never recognize each other after their discharge; and what is more, we are expected to believe it, in spite of every day's experience to the contrary. Surely it is impossible to step into the street, or to look into it, without recognizing many persons, whose features we are not in a position to see; and it is no more easy for us to distinguish an individual merely by his size, form, bearing, gait and other movements, because we have seen his face at some other time, than if we had not done so.

It is not necessary to consider the discipline of the borough and county jails in England, though some of them have adopted a system of separation similar to that of the penitentiary at Pentonville, because it appears from the evidence before the Lords Committees last spring, that in none of them is this system carried out so thoroughly as in that penitentiary, and that in

most of them it has been established but a short time. Beside which, the sentences of most of the persons committed to these prisons are for comparatively brief periods. In the five years ending with 1843, of nearly eighty thousand persons sentenced to imprisonment after trial by jury in England and Wales, more than seventy thousand were imprisoned for a shorter term than one year; and of three hundred and twenty-eight thousand, imprisoned after summary conviction before magistrates, more than three hundred and twenty-six thousand were sentenced for less than a year, and more than two hundred and fifty-three thousand for less than two months; many for seven, fourteen, or twenty-one days.

Imprisonment for very short periods cannot produce reform by eradicating old habits or establishing new, nor tend for the most part to prevent crime in any other manner, than by inspiring a dread of the punishment. How far this should be carried, and in what manner it may be rendered most effectual in any particular place, depends so much upon the state of society and of public opinion in that place, that no general rules can be laid down upon the subject,—with our present limited experience of the various schemes, which have been suggested,—excepting such as humanity will dictate to every one.

The laws of this State already provide, that in county jails, or houses of correction, no two prisoners, other than debtors, shall ever occupy the same room, except for work, unless in case of absolute necessity;

— that debtors shall be kept separate from those accused or convicted of crimes — the accused from convicts — minors from notorious offenders — those accused or convicted of mere offences, from those accused or convicted of infamous crimes — that no two of these various classes shall ever meet, except for labor or for moral or religious instruction, and that no communication shall be allowed between prisoners of the different classes. Whether any further provisions may be necessary in relation to these matters need not now be discussed.

The British government, enlightened by experience, has determined to make an important change in its whole system of secondary punishments; and last June, a plan was submitted to Parliament for this purpose, which will undoubtedly be definitively acted on at the next session. It proposes, that convicts under sentence of transportation, shall pass from six to eighteen months, — one year on an average, — under a system of discipline like that established at Pentonville, and shall afterwards labor together in gangs on the public works in Gibraltar, or Bermuda, or in the new harbors of refuge in England. The time fixed for their labor is to bear some relation to the length of their sentences, so that one condemned to seven years transportation will after four years of labor be, in case of good conduct, entirely discharged, whereas the greater criminals, sentenced to much longer terms of transportation, after laboring on the public works for the time allotted to them, would be

transported to one of the Australian colonies, to earn their own living there, but prohibited from leaving the colony during the time of the original sentence. This would greatly diminish the number of persons transported; for, while seven years is the shortest period for which this punishment is inflicted in Great Britain, it is also the most common. Great importance also must be attached to the statement of Captain Groves, that it is always difficult to obtain sufficient employment in the prisons of Great Britain; whereas it is obvious, that on the public works the men might be kept constantly and actively occupied.

Thus it appears that the new system now proposed to be established there, provides for one year of Pentonville discipline, followed by four or more years of *social labor*. During this latter period, we are told that the prisoners are to receive moral and religious instruction, and to be entirely separated from each other by night. This is well. And if it is designed also to furnish them, during the intervals of labor, with the means and opportunity of such intellectual culture as they are capable of receiving,—to guard carefully their intercourse by day,—and to prevent their having free and uncontrolled conversation by night; it is a design worthy of the greatness, the wisdom, and the benevolence of England. If not—those establishments are likely to become what our older prisons were, mere schools of depravity and guilt; and it behooves her to hold out to such prisoners every possible inducement to enlist abroad, and remain there. Let her beware that

they never return at any time, or in any event to her own shores. Better recall the "wolves, her old inhabitants."

It is worthy of notice, that in the debates in the House of Commons, on the third and tenth of June last, Sir George Grey, expressed his concurrence in the opinion of Sir Benjamin Brodie and Dr. Ferguson, who had both been on the commission for the management of Pentonville prison, that the utmost watchfulness and discretion on the part of the governor, chaplain and medical attendants, would be requisite in order to administer the system established there with safety, and Sir James Graham repeated the same sentiment. Now, why urge the necessity of *extreme caution*, if there is not extreme danger? We hear nothing of this necessity with relation to Parkhurst or to Charlestown. And if there is great danger that the bodily and mental health will in many cases be so deranged as to require medical interference, is there not a certainty, that in many more there will be a degree of debility and depression not amounting to positive disease, which no vigilance can detect; in which the intellect will be enfeebled without being prostrated, and the nervous system seriously impaired, though not absolutely shattered? These effects when perceived, may perhaps be deemed hereafter, as they have been heretofore, to be evidences of reformation. But it is a capital error to suppose that they promote or indicate any real improvement of the morals or of the intellect.

As the British government, however, already proposes to reduce the average time of confinement at Pen-

tonville from eighteen months to twelve, and appears to be aware of the necessity of the utmost watchfulness in this matter, it may be presumed that it will exercise such watchfulness, and if further experience should recommend it, will confine the application of this system of social separation and laborious idleness, to three months or three weeks ; the less the better ; though it cannot be expected entirely to abandon an establishment, which was built at so great a cost, and with such lofty predictions.

But there is surely nothing in this model system, which we need wish to imitate. Their daily walks are unnecessary here, for vigorous toil is exercise enough. We need not set apart two days in the week for the moral and intellectual culture of our prisoners, for their labor is not so oppressive and exhausting as to prevent their having the strength, as they have the time for it every day ; and this daily variety of occupation seems to us better than to give the whole day to one pursuit alone ; far better than one whole year of Pentonville education followed by four years of unmitigated toil.

It is not pretended, that the system established here is perfect. Far from it. It is hoped that it may go on improving from year to year, and still be regarded as an experiment, a system upon trial ; and not one whose invariable success we are willing to vouch for, or to the future support of which we are in any manner pledged. The system which will produce a complete reformation in all convicts, or in most of them, is yet to be discovered.

Still less is it presumed to urge its adoption on other countries, or to express the slightest regret or astonishment, that they do not prefer it to their own. It may well be, that a mode of prison discipline fitted for Massachusetts, with its few hundred convicts, is inapplicable to England with her thousands. It may be that France, with her immense resources, and her sisters of charity and her brothers of charity, can furnish every one of her convicts with a constant succession of virtuous companions; and that other nations of Europe may have special reasons unknown to us for establishing different systems. Of these things they must judge for themselves. But without the slightest disposition to dictate to them, we do not feel called upon in relation to this subject to submit to their dictation.

Considering, then, that from the experience of our own country hitherto, it appears that the system of constant separation as established here, even when administered with the utmost humanity, produces so many cases of insanity and of death as to indicate most clearly, that its general tendency is to enfeeble the body and the mind; — considering that the results of labor under our different systems, where both are best enforced, abundantly show, that habits of industry and skill in laborious occupations, may be more speedily and effectually acquired by working in company with others under the constant inspection of a master, than they usually are in entire solitude; — considering that our system of social labor is found to afford suffi-

cient gratification of the natural instinct for society to prevent any more frequent derangement of the health or of the intellect in prison than takes place in the community at large ; — and considering that this system may be maintained, and is maintained among us without frequent or cruel punishments ; — it may be concluded that it ought to be persevered in, until stronger evidence than has yet been produced, shall show some other system to be better adapted to our condition.

Amiable enthusiasts among ourselves may tell us, that the benevolence of the people of Massachusetts will supply the State Prison at Charlestown, with thirty or forty gardens embellished with flowers, and refreshed with fountains throughout the year ; and that for every four convicts committed to it, there will be found one enlightened, accomplished and discreet man, who will gratuitously incarcerate himself with them to afford them the benefit of his society. But the sober judgment of New England will not be deluded by such dreams.

And even if it were possible to admit such impossibilities, any system, however modified and improved, which allows none but solitary labor, though it provide abundant means and opportunities for exercise and for society, is still exposed to this great objection, that such labor *must* be interrupted for the purpose of exercise and for the purpose of society, and is always *liable* to be interrupted and made desultory by the listlessness or caprice of the convict ; and that there-

fore it will not be that diligent labor, from which alone, according to John Howard, honesty is to be expected; without which a subsistence cannot be earned in an industrious community; and which can be made easy in no other way than by being made habitual;—so that under such a system, only a portion of the day can be given to either of these three essential objects. Whereas they are all combined together under the system of social labor, in which all the time occupied by work is given to each of them; and thus the prisoners in general have at one and the same time every day, eight hours of diligent and useful toil, — eight hours of manly exercise, — eight hours of social existence,—and time enough left for penitence and for instruction.

APPENDIX.

No. I. (p. 79.)

[From the Boston Courier, corrected by the compiler.]

Comparative Expense of the New Penitentiary in Philadelphia, and the State Prison at Charlestown, from 1828 to 1846, inclusive — on the authority of the Auditor-General's Reports for Pennsylvania, and State Prison Documents for Massachusetts.

New Penitentiary in Philadelphia — Paid from State Treasury.

Years.	Authority — Page of Audit- or's Report.	Inspectors and others, on ac- count of New Penitentiary.	Salary of Offi- cers.	Conveying Con- victs.	Bounty to Con- victs.	Amount charg- ed to coun- ties for sup- port of their Convicts.
1828	28—29	4,000		672 19		
1829		5,000	1,000 00	411 27		
1830	32—33	4,000	3,784 50	1,159 11		
1831	" "		3,746 53	1,177 96		
1832	35—36		4,045 43	1,144 05		
1833	37—38	40,000	4,312 50	1,350 22		
1834	" "	80,000	4,379 91	1,686 57	243 00	
1835	39—40	70,000	6,796 18	1,612 99	204 00	4,406 08
1836	47—48	15,000	10,502 28	1,627 82	226 00	9,475 42
1837	40—41		12,998 75	809 37	564 00	9,564 28
1838	47—48	20,000	13,993 00	1,496 84	375 00	14,043 81
1839	41—42		18,044 76	688 94	332 00	14,623 94
1840	39—40		14,694 24	619 73	449 00	16,730 44
1841	42—43		15,599 58	1,155 49	405 00	17,860 23
1842	43—44		14,100 00	908 62	406 00	11,027 33
1843	32—33	8,000	7,872 48		332 00	7,313 38
1844	34—35		8,000 00	381 11		8,638 01
1845	34		8,000 00		692 00	4,229 79
1846	44		8,000 00	145 00		
		246,000	159,870 14	17,047 24	4,268 00	117,913 01

State Prison at Charlestown — Paid from Prison Treasury.

Year.	Earnings above Expenses.	Expenses above Earnings.	Year.	Earnings above Expenses.	Expenses above Earnings.
1828		12,167 07	1839	4,363 27	
1829		7,599 70	1840		179 43
1830		6,897 02	1841		1,015 92
1831		477 31	1842	931 36	
1832	4,192 32		1843		5,022 11
1833	6,995 57		1844	268 68	
1834	7,646 28		1845	807 35	
1835	7,000 00		1846		504 98
1836	13,428 25				
1837		2,773 64		45,960 02	36,637 18
1838	56 94				

The larger sums in the first column relating to Pennsylvania were probably for improvement and enlargement of buildings, and additional blocks of cells.

The salary of officers in the new Penitentiary in Philadelphia is paid from the State Treasury, irrespective of the earnings of the prison labor, which is inadequate to pay other expenses. The salary of officers at Charlestown is paid from the Prison Treasury, out of the earnings of prison labor, and amounts to more than \$15,000 annually. The expense of conveying convicts is paid from the State Treasury in Pennsylvania, and from the Prison Treasury in Massachusetts; but it does not appear from the Auditor-General's Report in Pennsylvania, what proportion of the above items belongs to the new Penitentiary in Philadelphia, and what to the prison at Pittsburg, nor whether they all belong to both.

The amount charged to counties for the support of their convicts are items given by the Clerk in the new Penitentiary in Philadelphia, in October, 1845.

The column of items of bounty to convicts is what was given to convicts connected with the new Penitentiary in Philadelphia; whether at the time of their discharge, or while in prison, is not stated in the Auditor-General's Report.

The earnings above expenses at Charlestown are proceeds of prison labor above expense for food, clothing, bedding, salary of officers, bounty to convicts — consisting of a new suit of clothes on discharge, and from three to five dollars in money to each, according to the distance he has to travel, his behavior in prison, and the probable use he will make of what is given him, the expense of transporting convicts from county prisons, and small incidental expenses — not heavy sums for erecting new buildings, or making extensive repairs. There have been appropriations by the Legislature of Massachusetts, of several thousand dollars, for repairs and improvements, new shops, &c., since 1828.

In the right-hand column of expenses above earnings, the salary of officers is always included, which is the heaviest item of expense in the prison at Charlestown, but not more than it should be, where the prison sustains the high character of the prison at Charlestown, and is to so great an extent a self-supporting institution.

It appears from the above table, that —			
There were paid from the State Treasury in Pennsylvania to prison inspectors and others, on account of the new Penitentiary in Philadelphia, from 1828 to 1846, inclusive . . .			\$246,000 00
In the same prison for salary of officers . . .			159,870 14
<i>Amount carried forward</i> . . .			<u>\$405,870, 14</u>

<i>Amount brought forward</i>	\$405,870 14
For conveying convicts	17,047 24
Bounty to convicts connected with the new Penitentiary,	4,268 08
Charged to counties by new Penitentiary for support of their convicts	117,913 31
Total in nineteen years	\$545,098 77
While, at the same time, in the State Prison at Charlestown, Mass., the earnings exceeded the expenses in certain years	45,960 02
And in other years, in the same range of time, the expenses exceeded the earnings	36,637 18
Leaving a balance of gain to the prison at Charlestown, after paying all the expenses as above specified (not including improvements and new buildings) of	\$9,522 84

No. II. (p. 123.)

[This Report of the late Dr. Cleveland is inserted here as containing views founded on actual observation, which may suggest further inquiries on the part of those who have opportunity to make them.]

SIXTH ANNUAL REPORT OF THE WARDEN OF THE RHODE ISLAND STATE PRISON.

*To the Honorable General Assembly of the State of Rhode Island,
October Session, A. D. 1845.*

The undersigned, Warden of the State Prison, and Keeper of the County Jail in the county of Providence, respectfully submits the following statement of "receipts and expenditures" of said establishments, together with a table showing the "circumstances of each convict in the State Prison," during the year ending September 30, 1844, as by law required.

He would further state, that he has heretofore circumscribed his annual report within the requisitions of law relating to the annual accounts and statistics of the Prison, without, however, deeming himself to be interdicted from the course pursued by the officers of similar establishments elsewhere, in presenting to the inspectors, or to the Assembly, as occasion may require, the results of their observations, with a view to a full understanding of the system which

they are called upon to administer, and to all the improvements which time and experience may suggest. The undersigned will therefore take this opportunity of considering, without unnecessary prolixity, several subjects connected with the mode of imprisonment here adopted, by way of a general answer to questions not unfrequently asked, and entitled to a reply from an officer whose position and duties should enable him, if faithful to his trust, to give the information required, in a plain and satisfactory manner.

The inquiry is frequently made, "How does the present system succeed in comparison with that which, in its main feature of labor in strictly solitary confinement, has been discontinued?" It is well known that this Prison was constructed and established upon that plan, and that the principle of strict seclusion has been given up for reasons deemed imperative. By an act of the General Assembly of this State, passed at the January session, 1843, the inspectors of the State Prison were vested with full power and authority to cause the prisoners then under sentence, or who might thereafter be sentenced to said Prison, "to be enlarged of their confinement, by permitting such prisoners to perform labor in the corridor of said Prison; by permitting more than one person to remain in a cell, or a nurse to be with them in case of sickness; by admitting them to the yard of the Prison in the daytime; by admitting such communications to and from their friends, and among themselves, and to receive such books and articles as might be necessary, under such rules and regulations as said inspectors might establish, and furnish to the warden, from time to time, consistent with the safe-keeping of said prisoners." The first of these provisions was immediately carried into effect, by causing the prisoners to perform their labor upon a platform erected in the corridor of the prison. Subsequently, a convenient workshop has been erected for the purpose; and the prisoners are assembled together on the Sabbath for religious exercises.

Does the result justify the change? is the question. The undersigned is impelled by several reasons, in addition to that already suggested, to make a public reply to it. The change was, from a sense of duty, by him respectfully urged upon those having the authority to advise its adoption; and after a careful observation, extending through a period of more than four years, of the injurious and alarming effects of solitary imprisonment upon the mental and physical condition of those who were the subjects of it. It has been recently suggested, by a foreign writer of distinction, that the system of solitary imprisonment in this state failed through the mismanagement of those charged with the duty of carrying it into effect—an imputation which shifts the radical fault of the system itself upon the administration of it, and which may be

deemed worthy of notice and refutation. Further, the undersigned believes it to be due to the cause of general humanity, that all mistakes of the penal code, so soon as discovered, should be so freely and distinctly explained, that there may be no danger of their repetition, here or abroad ; and that the amendment of them may be carried to the account of " public justice, which, at the present day, has been disrobed of the purely vindictive character formerly associated with it ; lays the hand of reluctant severity even on its most deserving victims ; avoids all unusual, unnecessary, and cruel inflictions ; and looks not only to the security and protection of society, but to the welfare of the prisoner ; regarding, in the spirit of Christian benevolence, every crime, however great, as a still greater misfortune, both to the offender and to the state."

In these remarks, I am very far from designing to reflect on the intention and object of any, who were instrumental in devising and establishing this Prison upon the plan of solitary labor ; joining as I did with the great majority, who required its erection, by their votes. The plan was generally approved, and widely sanctioned, at home and abroad. The " old jail " system, of herding together, within a narrow compass, prisoners of every age and degree, with its attendant consequences of moral and physical pollution and degradation, was condemned by all ; and public opinion, impelled by the prevailing theory of the day, as approbated by the most enlightened philanthropists of this and other countries, very naturally oscillated to the other extreme, and demanded the experiment of entire seclusion of the offender, with wholesome labor, and with the exertion of such moral means as should afford to him the hope of amendment and restoration, (when the limits of the law should permit,) as a purified and reclaimed member of society.

But the system, thus founded in the most honorable and humane intentions, had the inherent and incurable defect of being in opposition to the laws of the physical nature of its subjects, which no human laws can change. Under the old plan of promiscuously herding together by day and night, the prisoner was debased and brutalized ; under the new, he is, in too many instances, carried through " a slow, corroding process," to the derangement, or destruction, both of body and mind. This tendency of the solitary system, it is true, was predicted, upon natural principles, by some eminent opponents, whose benevolent sagacity forewarned, though ineffectually, the friends of Prison reform of the result which they might expect ; but experience was necessary to exhibit it, and at an expense which it is painful to contemplate.

"The errors of philanthropy are among the most injurious and

difficult to avert, as they are associated with good motives, and supported by the zeal of honest men."

It is to one of these, and to its correction, that I have, for the reasons given, now solicited a portion of your attention.

Before proceeding to particulars, I would make the additional remark, that, though the number of prisoners here confined has been small in comparison with those in the Prisons in some other and larger States, no better opportunity was ever afforded to observe, with care and in detail, all the effects of imprisonment on the convicts than that which has been here presented.

Commencing as I did with but three prisoners, and having continued for six years, with an increase of about ten prisoners in each year, I have been enabled to become particularly acquainted with each individual upon his admission, and minutely to notice every change that took place during his confinement.

That the failure of the system of labor in solitary confinement, in the Rhode Island State Prison, was not fairly attributable to the defect of its administration, appears at once from a statement of the mode and regulations of imprisonment here, which were the same as those adopted in older establishments elsewhere. The Prison was erected at a large expense, and is well and substantially built, to answer the purpose designed. The cells, being intended for constant habitation and workshops, were made large on that account, being, in the lower ranges, eight feet broad, fifteen feet deep, and eight feet high. From the second range, about three feet in depth are taken off by the corridors; but from the pitch of the roof, the upper cells are higher, and contain about the same number of cubic feet as the others. Each cell has a pine floor; is sufficiently lighted for the performance of any mechanical labor, with two squares of glass, each 14 inches by 5; is furnished with an abundant supply of pure water, and is warmed in cold weather with hot water circulated through iron pipes. The prisoner is comfortably clad, and sleeps in a wooden bunk, on a pallet and pillow of straw, (unless through sickness or infirmity a feather bed be allowed,) with such quantity of bedding as he may desire. The labor required was, as now, from fifteen minutes after sunrise to one hour before sunset, with two intermissions of half an hour each, for meals, from the 20th of March to the 20th of September; and during the rest of the year, from fifteen minutes after sunrise to 8 o'clock in the evening, with the same intermissions; the use of a light for one hour being also allowed after the close of the evening work.

Suitable medical advice and attendance were also furnished. Proper persons were licensed as moral and religious teachers, who visited the prisoners, principally on Sundays, for the purpose of in-

struction ; and preaching on Sundays was occasionally had in the corridor, the doors of the cells being opened as far as they could be without permitting the prisoners to see or communicate with each other. The Bible, books of prayer, tracts, and several other works of a moral nature, were also furnished to them, together with writing materials on Sundays. Communication in any form, with any person, was, as now, prohibited, excepting with the inspectors, warden, and other officers of the Prison, the physician and moral instructors ; and no prisoner, in any case, was permitted to leave his cell, except once in three months for bathing, and in case of sickness, under the prescription of the physician, for exercise, not exceeding fifteen minutes a day, in the corridor. Corporal punishment was excluded by law from the Prison, until shortly before the solitary system was mitigated ; and the only penalties inflicted were the deprivation of food, water, furniture, and bedding, for a longer or shorter time, in cases of refractory conduct, as the occasion might require. No partiality was shown among the prisoners from regard to their previous position in the world. Then, as now, the strict rule of this prison was to treat all, in all respects, precisely alike, with indispensable exceptions only in cases of sickness and infirmity. The whole system was carried into effect under the constant supervision and frequent visitation of a board of inspectors, having strong confidence in its superiority, and responsible to the legislative body for the discharge of their duties. Before entering upon the duties of his office, the warden visited several Prisons in other States, upon the plan about to be carried into effect here, to possess himself in detail, and from observation, of the best modes of procedure, in order to an exact conformity with the most approved models. Before a change was made in the original plan of the Prison, by order of the legislature, an inquiry was instituted, in that body, into the operation and result ; and no complaint or suggestion was made that the original plan had not been properly and completely carried into effect, or had failed from any departure or innovation, authorized or unauthorized, on the part of its administrators. In addition to this, on inquiring for the model of solitary imprisonment, which our censor, Dr. Julius, of Berlin, holds up for imitation, and for non-conformity with which his strictures have been elicited, it is found to be the "New Model Prison," situated near the Caledonia Asylum, in the suburbs of London, which was put in operation four years after this, and in which the prisoners are permitted to assemble for religious worship on Sundays, disguised in hoods, and sitting in separate boxes, and also to take the benefit of air, sunshine, and exercise, in separate yards provided for that purpose, with "shelters or covered ways," that they may not even lose the privilege of going out in inclement

weather. It certainly betrays a lapse of memory, or a confusion of ideas, in our learned friend and visitor, to discover an identity in the American system of close confinement, as anywhere practised, with the very distinct system of the London Prison referred to, which appears to go even beyond the Auburn system, in allowing exercise and diversion out of doors.

I submit, therefore, to your honorable body, upon this brief and incontrovertible statement of facts, that the punishment of solitary imprisonment was administered here in its ordinary and most approved mode, and proceed to exhibit its consequences, and what I deem to be their physiological causes.

Among the small number of prisoners at the onset, the bad effects of solitary imprisonment upon the mind were very apparent, not leading me, however, to consider them as arising from the peculiar confinement and discipline to which they were subjected. Like others, I attributed these effects to the prevalence of bad practices, according to a common notion among the medical attendants of similar establishments. In my capacity of keeper of the County Jail, beside debtors, persons accused and convicted, and occasionally madmen, dangerous to go at large, I had frequently under my observation, on commitment by the magistrates of the city of Providence, vagrants of the most wretched description, who were seized with that species of derangement called *delirium tremens*, arising from the sudden deprivation of an accustomed excessive stimulus of the brain by ardent spirit. In observing these cases, I was forcibly struck with the similarity of the symptoms in those who had become deranged in the *State Prison*, after a confinement of from six to eighteen months in solitude, to those manifested in the Jail in patients who became such after a confinement of but a few days, and undoubtedly from the abstraction of their accustomed excitement by drink. The appearance of similar effects, arising from apparently dissimilar causes, led me to an investigation of the subject, for the purpose, if possible, of ascertaining if such were the fact. From the uniformity of the symptoms of derangement, which made their appearance in a large number of the convicts in the State Prison, and were strongly developed in *one sixth part* of all who were there committed during a term of about four years, and all placed in the same condition, and under the same discipline, I was satisfied that all were affected by one and the same cause; and being forcibly impressed with the identity of their derangement with that exhibited in the Jail, arising from the abstraction of alcoholic stimulus, I at length was satisfied that the same general explanation extended to all the cases, though in one class of them no ardent spirit had ever been used to excess; or, if so used, had been entirely abstained from from six to eighteen

months. In both classes of cases, I have come to the conclusion, that the derangement was produced by the abstraction of an accustomed stimulus to the brain, either natural, and requisite to a healthy action, or unnatural, and adapted to the supply of a morbid and injurious appetite, and thus necessary, by a bad habit, to the ordinary mental and physical action of the system. Persons who have never been deprived even of a small portion of what may be called their *natural stimulus*, for any considerable length of time, are little aware of its salutary and indispensable influence. Every moment of our lives brings us under its action, through the external senses, in ten thousand various forms. The succession of day and night, the changing seasons through which we are constantly passing, are all in continual action upon the springs of life. The momentary and ever-changing objects which present themselves to the eye, the continual and rapid variety of sounds which fall upon the ear, and, in short, the perpetual succession of phenomena, which address themselves to the senses, are all, in a state of personal liberty, and except in the periodical intermissions of sleep, constantly operating upon the brain, and supplying it with that normal stimulus so necessary to the production of moral, physical, and intellectual health. In fact, all the external senses are but so many avenues, through which new impulses to the system are continually flowing; all which, including also social intercourse, combine in their operations, and give a perpetual impulse to the human system. Now, suddenly abstract from a man these influences, to which he has been so long accustomed; shut him up, with but scanty resources of his own to keep the powers of his mind in action, in a solitary cell, where he must pass the same unvarying round, from week to week, with hope depressed, with no subjects for reflection but those which give him pain to review, in the scenes of his former life; after a few days, with no new impressions made upon his senses, where even the sound of his own hammer is lost upon his ear, and one unvarying sameness relaxes the attention and concentration of his mind, and it will not be thought strange, that, through the consequent debility and irritability of its organ, the mind should wander and become impaired; in short, that the prisoner should have the "horrors," and that too from the same cause that produces the disease in the man whose system has become accustomed to other and greater stimulus than his, and has had that unnatural but habitual stimulus suddenly withdrawn. Is not the brain, as a physical organ, subject to the same laws that govern all other parts of the system? and may it not become paralyzed or deranged for want of action, as well as from exhaustion of excitability by over-action?

Perhaps it would be advisable to draw the parallel more speci-

fically between the two conditions of derangement to which I have alluded. If a man have safely passed through an attack of delirium tremens, arising from the abstraction of his accustomed alcoholic stimulus, he will never be liable to another attack so long as he abstains from that stimulus. The same is true, so far as my observation extends, of the prisoner who has safely passed through the same ordeal in the abstraction of his accustomed stimulus to the senses, such as has been described; and he will spend the remainder of his days, so long as he shall remain in prison without any interval of liberty, though for years in solitude, and never be subject to a like attack. But the consequences may be irreparable, and he may be very much reduced in the scale of being; without energy or capacity, for action, and unfit to be restored to society; his animal propensities invariably gaining the ascendancy over his moral and intellectual faculties, inasmuch as the ordinary stimulus necessary for the former has not been abstracted to so great an extent.

Again, let the long accustomed stimulus of alcohol be gradually withdrawn from those, who, in consequence of a depraved condition of the body, would otherwise be the subjects of delirium, yet such is the flexibility of the human system, such its power, gradually, within certain limits, to accommodate itself to changes of condition without sustaining material injury, that it may be done with impunity. The same is true, and has been repeatedly exemplified under my observation, in regard to the effects produced by the abstraction of the natural stimulus of the brain in solitary imprisonment; and, without a single exception, those who have suffered the greatest deterioration from solitude, are men who possessed the smallest portion of intellect, who depended almost wholly upon external influences to keep their brain in action, and who had their accustomed and necessary resources suddenly and almost entirely abstracted. But those who are blessed with better intellects, and who are consequently supplied with a stock of internal resources, upon which to sustain themselves, have been enabled gradually to let themselves down, and have become accommodated to their new and inferior condition, without, or with less perceptible injury.

Again, when the accustomed excessive use of ardent spirits is suddenly suspended, and symptoms of delirium tremens ensue, nothing is better adapted to relieve the patient than the administration of his usual stimulus. The same is true in relation to that derangement produced by solitary imprisonment, in support of which, and more clearly still to show the identity of the two conditions of derangement under consideration, I shall now adduce a few cases of the latter, assuming that those of the former class, as well as the treatment of them, are too well known to require a description at this time.

CASES.

Prisoner No. 6, white, aged 28 years, was sentenced to separate imprisonment for four years. His health was somewhat impaired; but he was of temperate habits, possessed of ordinary intellect, but uncultivated, with large perceptive faculties, a nervous-sanguine temperament, and a good flow of spirits. He had passed a roving life, without regular employment. He showed symptoms of derangement about the twelfth month of his confinement. The principal feature of his derangement was a constant dread and fear of some imaginary danger. In this state of mind he attempted to commit suicide, to avoid being flogged to death, which he was sure would soon be done, though at that time corporal punishment was not allowed in the Prison. He was continued in solitude during the remainder of his sentence, and was discharged from Prison almost an idiot. As no one knew his name or home, and he was not in a suitable condition to be at large, he was placed in the County Jail for safe keeping. At this time, every indication in his appearance was, that he would never again be restored in the slightest degree. Being harmless, he was placed in one of the rooms appropriated to debtors, where, to my surprise, after associating with them for several months, he seemed to regain some glimpses of memory, which apparently had been lost for nearly three years. He is now in the Lunatic Asylum at Concord, New Hampshire, in the hope of the restoration of his faculties; but with what success, time has not disclosed.

A similar condition of imbecility, I think, would often be consequent upon the excessive use, or the sudden abstraction, of ardent spirits, were it not for the fact, that, in extreme cases, the physical powers sink with the intellectual, and death overtakes the victim. But, according to my observations, where a long and excessive use of ardent spirit has been indulged in, although the animal functions may survive the shock of its abstraction, the moral and intellectual faculties never regain their original integrity. The same remark will, in my judgment, apply with equal truth to the individual whose system has received any considerable or long-continued derangement by the abstraction of his natural and accustomed stimulus in solitary confinement.

Prisoner No. 8, white, aged 40 years, was sentenced for five years; a man of temperate habits and good health, of inferior intellect, with strong passions, and a considerable share of cunning. His temperament was bilious-sanguine, and very much disposed to mirthfulness. He could neither read nor write, and was very ignorant, except of the expedients to gain a dishonest livelihood: his occupation irregular. He became deranged about the tenth

month of his confinement. Symptoms of delirium tremens were in his case more completely developed than in the preceding. I have found him in the greatest state of terror and alarm, in consequence of his seeing some one at his window, with a long pike, for the purpose of killing him. Under this impression, I have seen him crouched in some corner of his cell, where he could not be reached from the window, his whole frame in a state of tremor and agitation, indicating the greatest fear. Under this fear and excitement, he also attempted suicide. This state of delusion continued about six months, when he gradually recovered his composure, with the mental faculties much reduced. He remained four years in solitary confinement, at which time the system was abolished. But so great was his aversion to leaving his cell for labor ; that he was allowed to continue there during the remainder of his time.

Prisoner No. 20, white, aged 32, was sentenced for twenty months. His constitution was impaired by intemperate habits. His mental faculties were feeble and uncultivated ; his occupation that of a sailor ; no marked indication of temperament, and an even but moderate flow of spirits. He exhibited symptoms of derangement about the twelfth month of confinement, which increased until most of the symptoms of delirium tremens were fully developed, such as tremor of the hands, tongue, and voice, profuse perspiration, a delusion of the senses, and great fear of personal injury from false causes, leading him to arm himself with whatever was in his possession, and give battle to his imaginary enemy with the greatest desperation. He continued in this situation to the expiration of his sentence, having once attempted suicide. After being discharged, his recovery was rapid, and in a few weeks he was apparently restored to a sound state of mind.

Prisoner No. 40, white, aged 28 years, of strong constitution, good health, and of temperate habits, was sentenced for two years. His natural abilities were fair ; he was barely able to read, but had never learned to write. His temperament was bilious-sanguine, and of an ordinary cheerful disposition. He showed symptoms of derangement, with a tendency to commit suicide, about the tenth month of confinement, soon exhibiting several well-marked symptoms of delirium tremens. When under great apparent fear and excitement, he related to me a plot he had heard formed in the Prison-yard for taking his life ; that he had also seen one of the conspirators at his window, with a gun, for the purpose of shooting him, and that he had saved his life by lying on the floor immediately under the window, where the gun could not be brought to bear upon him ; afterwards, that they resorted to suffocation, by burning sulphur at his ventilator, and that he barely saved his life by

applying his face to the window, where he could breathe the external air. At this time, the law relating to the Prison had been so far altered as to allow two or more prisoners to remain in a cell. Accordingly, another prisoner was allowed to be with him, which alone appeared to be the cause of his recovery, after a few weeks, when, at his own request, he was left alone in his cell, where he in a short time relapsed and exhibited all his former symptoms. The company of a convict was again allowed him, as before ; and in about four weeks he was restored, without afterwards relapsing into his former condition, though his companion was removed, as before.

Of the *forty* prisoners committed while the strictly solitary system was in operation, ten, or one fourth of the whole number, (two of whom were blacks,) manifested decided symptoms of derangement ; seven so much so, as to unfit them for labor for a longer or shorter period, and five were discharged insane, two of whom recovered, and three now remain unrestored to a sound state of mind.

Of the *nineteen* committed since the system was abandoned, three only, — two whites and a black, — have shown symptoms of derangement. One of them is No. 20, whose case has been described, who was recommitted in about twelve months after his discharge, and who relapsed into his former condition about the fourth month of confinement. One other, a black, was so much deranged as to disqualify him for labor, his health at the same time being much impaired, though good when committed. He died of dropsy of the chest, in the tenth month of his imprisonment, and in the sixth week of his being so far deranged as to unfit him for labor. The third is in tolerably good health, and is not disqualified for work, though laboring under constant anxiety, depicted in his countenance, from the hallucination that he is visited by tempters, whispering in his ear the suggestion to commit some criminal act. He showed symptoms of derangement about the sixth month of confinement.

I would here remark, from all the observations that I have been able to make, that but few men, and those strongly constituted, can be subjected to the discipline of solitary imprisonment, as it was here established, without becoming, sooner or later, through its depressing effects, more or less debilitated in some of their physical and mental operations ; and I have not the least doubt, that under this, as well as under other systems of imprisonment, hundreds of convicts have been most inhumanly punished, for the innocent exhibition of some eccentricities of conduct during the trying period of their imprisonment, when, upon every principle of humanity, they should have been treated with more than ordinary kindness and compassion. Effects somewhat similar to the above

are often, in a greater or less degree, produced by the stagnation of the active powers, after retirement from a long and energetic business life. The individual having secured a competency for the body, without having laid up any internal resources, finds himself sinking under this new state of mental inertia. Upon the withdrawal of the accustomed stimulus of business, nothing is left to keep up the healthy action of the brain, and melancholy, and oftentimes suicide, is the result, and from a cause similar to that which operates in the production of delirium tremens.

Similar effects are not produced upon the mind upon retiring from literary labors and pursuits; and the reason is evident. The literary man carries with him, in his retirement, a store of food for thought and reflection; and although his activity may be diminished, there yet remains sufficient stimulus to support the brain under its somewhat altered circumstances, until it becomes adapted to them. The minds of literary men, however, sometimes become deranged under circumstances analogous to that form of delirium tremens arising directly from the excessive stimulus of ardent spirits. In both cases, the excitability of the brain, from excessive action, becomes exhausted; and in both cases, the worst form of paralysis of that organ is the consequence. In some diseases, also, especially in the malignant form of typhus fever, where there is a sudden loss of the vital powers, a species of delirium ensues, very much resembling delirium tremens, and from which the patient is restored only by the use of the most powerful stimulants.

Upon a review of facts like those I have now detailed, it is impossible for me to hesitate in condemning the penal system of solitary confinement. Were it preferable in an economical point of view, — and the case is widely the reverse, — we could not hesitate in deciding the question between economy and humanity.

“Political society has the undoubted right to vindicate its laws, by assigning to the violation of them such penalties as the public safety and welfare may require, and such as do not conflict with the paramount injunctions of the divine Lawgiver.” “It is, as I believe, the right of society to take the life of an offender, if necessary; but not to take his mind, or to subject him to any process of infliction of which mental derangement shall be an ordinary, and not an unusual and unexpected result. There is no pretence of necessity for any system that operates in this way. There are others more safe, practicable and beneficial.” “The legitimate objects for which judicial punishment are inflicted by the political state, are to administer retributive justice to the offender, to secure society against a repetition of his offence, and to deter others from imitating his example. The first object is accomplished by death, imprisonment, or other infliction upon the offender; the second, by

the same means, and, still better, by his reformation ; and both the second and the last, by exhibiting a sufficient counterbalance of evil to weigh down any amount of pleasure or gain which may tempt him or others to do the like. And the amount of pain which society can inflict, is that which is strictly necessary in its own defence. All beyond this partakes of the crime committed, rather than of the justice which seeks to punish it ; is 'cruel and unusual,' and is at war with the sound principles of government and the dictates of humanity."

The improved physiology of the present day, without denying the possibility of an insane mind, according to the popular form of speech, recognizes no such phenomena, in the present state of existence, without a proximate bodily cause ; though the remote causes may be bodily or mental, or both. And as the causes of derangement in solitary confinement, both proximate and remote, appear so uniformly to be of a physical nature, and so fully adequate to the effects produced, I do not deem it necessary to dwell on any other than that which it has been my endeavor to exhibit, and which, if it have received any attention from others, has not been estimated as its importance requires.

Without dwelling on the greater expensiveness of the solitary plan, its effects on general health, its failure to deter from crime, (according to the promise held out,) and various other objections, I would remark, that the advantage claimed for it, of greater calmness of demeanor and easier submission to the rules of the place, on the part of the solitary prisoner, has not been realized here. On the contrary, solitude has been found to produce restless irritability, and a peevishness of disposition, impatient of the unnatural restraint imposed on the reluctant body and mind, difficult to be dealt with ; while, in the performance of social labor, in silence, the men have been better subject to control, and have required less frequent exertions of authority than before. When shut up in the cells, they exercised, under the cravings of the social instinct, which walls and chains cannot repress, every contrivance that ingenuity could suggest, by means of the window, and the pipes passing through the cells, to hold some communication with each other ; and they were more frequently successful than would have been supposed possible. While, on the other hand, when the strict seclusion of the cell was done away, and the senses of the prisoners were once more opened to a portion of their accustomed impressions, and the social nature had been partially relieved, by permitting company without conversation, a very marked change came over the prisoners, and they manifested most clearly to the observer, by their great cheerfulness, alacrity in labor, and prompter compliance with orders, that their condition was much improved, and that they were sensible of it.

In the year preceding the discontinuance of solitary imprisonment, there was an average loss from sickness of twenty-five per cent. upon the labor of the convicts. During the past year, under the system of social labor, the loss, from the same cause, has been about six per cent. The necessity and amount of punishments for disobedience and violations of rules have diminished in about the same proportion. It should be added, however, that corporal punishment has been introduced under the new system, and no doubt has operated to deter from offences, although it has been administered to two prisoners only in extreme cases.

Another supposed advantage of the solitary plan — that of affording secrecy and seclusion to the prisoner, so that he may go forth into the world again without being recognized, and perhaps threatened or tempted by his associates — is, in practice, wholly illusory. For no man passes into Prison without an open trial, and the knowledge of friends and enemies; and no man can expect to pass out again without being remembered. A hope of concealing the imprisonment, as the basis of reformation and a new character, is almost sure to be defeated; and I believe that “experience fully warrants the assertion, that the prospect of thorough and lasting reform is the best where the offence is atoned for on the spot where it was committed, and before its witnesses, by honest exertions, and a life of integrity.”

Without seeking a controversy with the officers of other Prisons, I feel, nevertheless, free to say, after an attentive examination of their reports, setting forth the great amount of derangement which prevails under the system of strict solitude, and more especially the reports of the Eastern Penitentiary, at Philadelphia, which was taken as our model, that, in my opinion, the main, prevailing cause of derangement in those prisons has been overlooked; and that the cases as described have been erroneously attributed to the prevalent practice of masturbation.

It is at the same time asserted, that the very worst and most hopeless form of derangement, arising from this source, viz. dementia, the condition of being demented, and prostrated in body and mind, is frequently curable, and the cases are reported. We read also of *acute* dementia, (*acute* depression, or decay of the faculties! — a phrase which sounds somewhat strangely to an old-fashioned practitioner,) of “erotic enervation,” of hypochondria, hallucination, and “*deviltry*,” among the list of causes; from the description of which, I believe them to amount, in the whole, (excepting the *last*, which is not precisely intelligible in this region,) to *enervation of the brain*, the organ of the mind, through the abstraction of the greater portion of its appropriate and external stimulus. At all events, I shall be satisfied if I have said any-

thing to recall attention to this important subject, and to the closer investigation of the phenomena. If I am in error in this matter, I shall be more happy to be corrected than to detect the errors of others. If I am right, the boasted system of solitude may lose something of popularity, where it is still retained, and humanity will be the gainer.

While it will be seen from the statistics of this Prison, before presented, that the proportion of deranged has fallen from twenty-five per cent., under the solitary system, to *ten* per cent. of new cases, under the present, of solitude by night, with labor in company by day, there is room for improvement, until this opprobrium shall, if possible, be removed, by reducing this deplorable evil to its smallest possible compass. This, of course, will be an object of solicitude with all concerned in the management of the Prison.

In attending to the habits and dispositions of prisoners, it has been a question with me how far they would be benefited by intercourse or communication with friends on the outside. In some Prisons, occasional visits are allowed; in others open letters are permitted to pass to and fro; and in some, temperance newspapers are circulated. In this Prison, a stricter rule prevails, and no visitors, except those authorized by law, and except in extreme cases of sickness or otherwise, are permitted to see and converse with the prisoners. Without intending to interfere in this or other matters resting in the province of the inspectors, I may be allowed to say, that while there are some who may be almost said to be fortunate in being rescued from the base and contaminating associations with which they have been mixed up, and brought to this place, the case is different with others who have virtuous, sympathizing friends; and there is a chord in the heart of the most erring, which can be touched by the hand of kindness, with an unfailing response. In looking over the writing-books which are furnished to the prisoners on Sundays, I have been occasionally struck with the home feeling manifested, and the yearning of prisoners after the better things that have been lost in the pursuits for which they had incurred the penalty of the laws.

It is worthy to be considered whether a proper communication from abroad of the good influences of friends may not sometimes become an important element in the recovery of prisoners to a purpose of amendment, from which they will not so easily be swayed by their former temptations, on returning to the world.

Among the great variety of topics which press upon my attention, there are two popular errors relating to imprisonment, upon which I will offer a few remarks. One is, that the greater the severity practised toward a prisoner, the greater his punishment. It is very common, when improvements in Prisons are suggested,

for the greater comfort of the inmates, to hear the observation, that they ought to suffer, and the more the better ; that the way of the transgressor is hard ; and that the only way to benefit him is to make a deep and lasting impression of wholesome severity upon body and mind. It is true that pain is the portion of the prisoner for his offences, and that he must suffer, and deeply suffer, to be benefited. But there is a limit which cannot be passed without defeating the ends of the law, in retribution, public security, and personal reformation, and perverting justice into cruelty without an object.

Says an American writer, "It ought to be impressed on law-givers, and all who are called upon to administer penal justice, in any of its modes, that it is possible, and indeed too common, by excess of severity, *to sink the prisoner below the capacity of being punished at all*, in wearing out the vigor and sensibility of body or mind, or both." "Let those who, without due reflection, approve of the utmost harshness and severity to prisoners, that they may be made to feel and reflect, consider but for one moment what must be endured in a State Prison, even where administered under the least stringent regulations ; upon the total seclusion of the prisoner from friends, and from the external world, and from the knowledge of what is passing in it, for months and years ; upon the suppression of the social nature, and the sufferings of the mind even in the most hardened, — and he will dismiss, at once, an opinion which wars with the superior sentiments of humanity."

The second error, allied to the first, is, that this harshness and severity are necessary to prevent prisoners from repeating their offences, or committing others, and being brought back again to confinement. The very reverse of this statement is the truth. "Words of kindness have subdued hearts in Prison that were callous to bolts and bars." "The only hope of reforming a man in Prison, and preventing his being brought back again, after his discharge, is in appealing to his intellect and moral nature ; in dispossessing him of his revenge, if he have any, against his prosecutors ; in reconciling him to the justice of his sentence, and to the labor and deprivations to which he is subjected, as being necessary, and tending to his own good ; in treating him like a man, who, though fallen, is not lost ; in raising up his self-respect, enlightening his ignorance, awakening his conscience ; in making him feel that he is not an outcast, and that there are those who 'care for his soul,' and would be glad to see him renovated and restored to his place in society ; in governing him with firmness, but with as little severity as possible, and in showing him as much kindness, in every respect, as discipline will permit." With all

these means, accompanied by religious instruction, "the expectation of reform in prison should not be too high, for reformation in the shade, where there is no temptation, like the virtue of hermits and monks, is endangered by exposure to the light; and too frequently will not bear the contact of the world;" and, further, "although in those who have committed what may be called crimes of excitement, there is often no deep-rooted depravity, yet the mass of convicts are those who are so broken down in moral character, as to be past recovery by any agency less potent than the special grace of God." "Hard usage will make a man very desirous to get out of Prison, but it will not prevent him from committing the crime that will send him back. And here lies the error of the advocates of severity. Conscience being seared, desire ascendant, temptation strong, judgment weak and easily deluded by false hopes of concealment or impunity, the old offender is very apt to repeat his crime, at the first opportunity, notwithstanding the recollection of all that he may have endured in the very severest form of imprisonment. Where the greatest severity is practised will be found the greatest number of recommitments."

The prisoners now committed here, possess as fair natural abilities as the average of the community; most of them can read and write. A large majority of the convicts were addicted to the use of ardent spirit. All the cases of murder, — three in number, — and also all the cases of manslaughter, were instigated by "the demon of the distillery."

Of the *fifty-nine* prisoners committed here, *three* have been committed a *second* time, but *none* a *third*.

As appears by the physician's report, the general state of health in the Prison has been good for the year. One cause of the disproportionate tendency to affections of the lungs in inmates of State Prisons, is found in the general disuse of the voice, and consequent debilitation of the lungs, through the indispensable rule of continued silence. Reading aloud, rehearsing and singing in their cells, should be encouraged among prisoners, as a means of counteracting this evil.

There are some other topics, connected with those already adverted to, which time and the space now occupied will require me to defer to some other opportunity.

All which is respectfully submitted, by

THO'S. CLEVELAND, M. D.,

Warden of the Rhode Island State Prison.

PROVIDENCE, October 30, 1844.

these means, accompanied by religious instruction, "the expectation of reform in prison should not be too high, for reformation in the shades where there is no temptation, like the virtue of hermits and monks, is endangered by exposure to the light; and, further, penitents will not bear the contact of the world," and, further, although in those who have committed what may be called crimes of excitement, there is often no deep-rooted depravity, yet the mass of convicts are those who are so broken down in moral character, as to be past recovery by any agency less potent than the special grace of God." "Hard usage will make a man very desirous to get out of prison, but it will not prevent him from committing the crime that will send him back. And here the error of the advocates of severity, conscience being sound, the mind is not so easily led astray; judgment weak and easily misled by false hopes of concealment or impunity; the old offender is very apt to repeat his crime at the first opportunity, notwithstanding the recollection of all that he may have endured in the very severest form of imprisonment. Where the greatest severity is practiced will be found the greatest number of recidivists." The prisoners now committed there, of course, as fair natural abilities as the average of the community; most of them can read and write. A large majority of the convicts were addicted to the use of ardent spirits. All the cases of murders—those in number, and also all the cases of manslaughter, were instigated by the demon of the bottle. Of the fifty-nine prisoners committed here, three have been committed a second time, but none a third.

As appears by the physician's report, the general state of health in the prison has been good for the year. One cause of the disproportionate tendency to affections of the lungs in inmates of State Prisons, is found in the general disease of the voice, and consequent debilitation of the lungs, through the indispensable rule of continued silence. Breathing aloud, rehearsing and singing in their cells, should be encouraged among prisoners, as a means of countering this evil, to which all are liable.

There are some other topics connected with those already referred to, which time and the space now occupied will require me to defer to some other opportunity. I am, Sir, very respectfully,
 All which is respectfully submitted, by your obedient servant,
 THOS. CLEVELAND, M.D.,
 Warden of the Rhode Island State Prison.
 Providence, October 30, 1844.

Gray, Francis C.

Prison discipline in America

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